



## AGENDA

### PLANNING COMMITTEE MEETING

Date: Thursday, 23 June 2022

Time: 7.00 pm

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

Membership:

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

Quorum = 6

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Pages

#### Information for the Public

\*Members of the press and public may follow the proceedings of this meeting live via a weblink which will be published on the Swale Borough Council website.

Link to meeting: Link to be added.

#### Privacy Statement

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## Recording Notice

Please note: this meeting may be recorded, and the recording may be added to the website.

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

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

### 1. Emergency Evacuation Procedure

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

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

The Chair will inform the meeting that:

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

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

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

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

### 2. Apologies for Absence and Confirmation of Substitutes

### 3. Minutes

To approve the [Minutes](#) of the Meeting held on 12 May 2022 (Minute Nos. 771 - 778) and the [Minutes](#) of the Reconvened Meeting held on 16 May

2022 (Minute Nos. 779 – 782) as correct records.

#### 4. Declarations of Interest

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

The Chair 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 Interests (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**

#### 5. Planning Working Group

To approve the Minutes of Meeting held on 13 June 2022 (Minute Nos. to follow).

2.1 21/503749/REM Land on the south east side of Bartletts Close, Halfway, Kent, ME12 3EG

The applicant is amending the proposals as a result of the site meeting and the application will be reassessed by officers with any necessary re-consultation carried out and then presented to a future meeting in its amended form for determination.

6. Deferred Items

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To consider the following applications:

21/502609/OUT, Land to the East of Lynsted Lane Lynsted Kent ME9 9QN

21/506021/FULL, 21 Chaucer Road Sittingbourne Kent ME10 1EZ

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

Requests to speak on these items must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call us on 01795 417328) by noon on Wednesday 22 June 2022.

7. Report of the Head of Planning Services

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call 01795 417328) by noon on Wednesday 22 June 2022.

### Issued on Wednesday, 15 June 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](http://www.swale.gov.uk)

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

**PLANNING COMMITTEE – 23 JUNE 2022****DEFERRED ITEM**

Report of the Head of Planning

**DEFERRED ITEMS**

Reports shown in previous Minutes as being deferred from that Meeting

<b>DEF ITEM 1 REFERENCE NO - 21/502609/OUT</b>		
<b>APPLICATION PROPOSAL</b> Outline application for the erection of up to 10no. residential dwellings with associated landscaping, road layout and parking. (Access being sought).		
<b>ADDRESS</b> Land To The East Of Lynsted Lane Lynsted Kent ME9 9QN		
<b>RECOMMENDATION</b> Grant, subject to conditions and the signing of a suitably worded S.106 to secure the requested developer contributions.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> 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. No objection has been raised by statutory consultees and the scheme has been subject to an independent highway review which has concluded that the proposal is compliant with local and national highway policies.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The application was 'called in' by the Head of Planning Services at the 10 <sup>th</sup> March 2022 Planning Committee meeting and the Committee agreed that an independent highway analysis be carried out with the results reported back to a future meeting. This analysis has now been concluded and this report and the Appendices set out the details.		
<b>WARD</b> Teynham And Lynsted	<b>PARISH/TOWN COUNCIL</b> Lynsted With Kingsdown	<b>APPLICANT</b> Eden Real Estate Group Ltd And FPC Income And Growth PLC <b>AGENT</b> ECE Planning Limited
<b>DECISION DUE DATE</b> 13/08/21		<b>PUBLICITY EXPIRY DATE</b> 17/12/21

**1. BACKGROUND**

- 1.1 This application was first report to the Planning Committee on 10<sup>th</sup> February 2022 where Members resolved *"That application 21/502609/OUT be deferred in order that the Planning Working Group can meet on site."*
- 1.2 The site meeting referred to above was held on 1<sup>st</sup> March 2022 and the application was reported back to the Planning Committee meeting of 10<sup>th</sup> March 2022. During the meeting, upon being put to the vote, the motion to approve the application was lost. At that point the Head of Planning Services used his delegated powers to 'call-in' the application. The

Committee then agreed to defer the application to allow an independent highway analysis to be carried out. For the avoidance of doubt, the resolution was as follows:

*“That as the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance, determination of the application be deferred to a future meeting of the Committee, with independent highway advice and bus route information also to be included and the results reported back to the Committee.”*

- 1.3 The independent highway advice as referred to above has been obtained. The initial advice received is included at Appendix 1 and sought further information from the applicant. This was provided in a Technical Note submitted by the applicant, included at Appendix 2 which the Council’s highway consultant again reviewed, with their final concluding report included at Appendix 3. I have also included the original committee report at Appendix 4, which sets out the description of the site, the proposal, local representations, consultations and the appraisal of the scheme - as such I will not repeat these details here. As a result, the form that this supplementary report will take will be to discuss the independent highway advice received and how this has informed the recommendation reached by Officers.

## **2. APPRAISAL**

- 2.1 As set out above, in addition to the detailed assessment of highway related matters undertaken by KCC Highways & Transportation during the course of the application, since the application was deferred at the 10<sup>th</sup> March 2022 committee meeting, an in depth independent review of the highway issues has been carried out.
- 2.2 The initial independent review is provided in full in Appendix 1. As part of this review a site visit was carried out to assess amongst other things, the current parking situation in Lynsted Lane. This is in addition to the site visits carried out by the applicant in producing their proposals and the visits carried out by Officers. I note from the committee resolution that Members also requested information regarding bus routes. This matter has been specifically addressed as part of the initial highway review which for the avoidance of doubt states the following:

*“We have reviewed the existing bus service information for routes operating on Lynsted Lane as per the TS, noting:*

- *345 Service:*

- *5 services per day, Monday to Friday,*

- *1 service on a Saturday.*

- *662 Service – School service, with one bus arriving in the AM and PM.*

*Given the infrequent services on Lynsted Lane, we have not seen any evidence that the proposed give way control on Lynsted Lane, or the proposed development in general, will have an adverse impact on existing bus services.”*

- 2.3 As a result of the above, the assessment carried out as part of the independent highway review, (along with the views previously given by KCC Highways & Transportation) believes

that the proposed development including the give way control on Lynsted Lane, will not have a harmful impact upon existing bus services.

- 2.4 Members will note that the initial independent review concluded *“For the most part, the development proposal is considered appropriate in principle, however, further information is required before the proposal can be fully supported at the outline stage...”* The further information related to the suitability of the proposal in relation to local and national policy; the extent of parking restrictions on Lynsted Lane; to demonstrate that suitable safe stopping distance can be achieved on the approach to the Lynsted Lane give way control; updated vehicle tracking; and to demonstrate that any loss of parking on Lynsted Lane can be accommodated elsewhere on the road, within a suitable walking distance.
- 2.5 In response to this the applicant provided a Technical Note (Appendix 2) which included a response to each of the above referenced points and which the Council’s consultant again reviewed - see Appendix 3 for comments in full. In particular, a drawing has been provided which confirms the visibility splays and safe stopping distances are achieved in accordance with Manual for Streets and the Kent Design Guide. In addition, parking restrictions along the western side of Lynsted Lane have been extended by approximately 5m, with restrictions on the eastern side of Lynsted Lane extended by approximately 21m to the south of the access to ensure that visibility can be maintained. It should be noted that no cars have been picked up in the parking survey as being parked on the eastern side of Lynsted Lane where these specific restrictions have been extended, although this will ensure that visibility is maintained. As a result, I have updated the condition (namely condition 27 below) requiring that a TRO is submitted and (if approved) the works are carried out prior to the occupation of any dwelling.
- 2.6 The matter of the existing parking that takes place on Lynsted Lane and the impact of the proposals upon this has also been reviewed. The applicant considers that when reviewing the amount of parking currently occurring along Lynsted Lane and parking ‘stress’ levels, that the current situation is comfortably below the point that parking stress becomes apparent. As a result, the applicant takes the view that there is still available parking within a reasonable walking distance, even accounting for the proposals as now put forward including the new parking restrictions. In respect of this it is noted that the Council’s Consultant sets out that *“We acknowledge the provided parking survey information and consider it acceptable.”* In addition to the available parking on the highway, there is also, as previously discussed as part of the scheme, compensatory parking to be provided within the development itself. The applicant and the Council’s Consultant agree that the number of spaces should be 5 and it is suggested that a condition is imposed to secure this. I have recommended this condition (namely condition 1 below) and on the basis of the independent review I believe that these matters have been acceptably dealt with and would not give rise to unacceptable harm in this regard.
- 2.7 Further points which have been addressed / clarified refer to the tracking details for refuse and servicing vehicles and the general policy context which the application has been assessed against. These points have been addressed in the applicant’s Technical Note and in response, along with the additional matters discussed above, the following conclusion by the Council’s Consultant as contained in the final independent highway review has been reached:

*“We consider the response provided by Stantec to be sufficient to address our initial concerns, as documented in our initial response dated 12 April 2022, noting:*

- The scheme is considered compliant with relevant national and local highway policy,*
- Following conversations with Stantec and the evidence presented, the design of the site access is considered suitable,*
- We agree that the 5 compensation parking spaces which can be accommodated within the site should be secured by a planning condition, with the details determined at the reserved matters stage.”*

- 2.8 I do recognise that Lynsted with Kingsdown Parish Council, Teynham Parish Council, local residents and Members have raised concerns regarding the impact of the proposal upon highway safety and amenity. However, now in addition to KCC Highways & Transportation raising no objection (subject to conditions which have been recommended), I am in receipt of very detailed independent highway advice which clearly sets out that the proposal *‘is considered compliant with relevant national and local highway policy.’* On this basis I can reach no other conclusion than that the proposal would not give rise to harm to highway safety and amenity nor give rise to a severe impact upon the road network (the tests set out in the relevant policies) and is acceptable in this regard.
- 2.9 I do note through the course of the highway review, that due to the increase in the length of the yellow lines proposed, that amended drawings have been provided. As a result of this I have updated the relevant condition requiring a Traffic Regulation Order to be submitted showing the details as contained in this latest drawing. For completeness I have also liaised with KCC Highways & Transportation - on the basis that this part of the highway network is under their control – who have confirmed they have no objection to the extended yellow lines as proposed. In addition, I have added a condition to ensure that the off site highway works, which includes the footway on the eastern side of Lynsted Lane and the priority shuttle system is completed prior to the occupation of any dwelling.

#### Other Matters

- 2.10 I note the Tabled Update which was provided to Members ahead of the application being reported to the planning committee meeting of 10<sup>th</sup> February 2022. This refers to amendments required to a limited number of the conditions. For the avoidance of doubt, I have updated the wording to the conditions listed below as referenced in the tabled update.
- 2.11 Members will also be aware that there is a private right of access from this site, through the adjacent joinery yard linking to the A2. There is also a new footpath proposed on the eastern side of Lynsted Lane which would link the site to the A2 and therefore providing in my view, a convenient and direct alternative route to nearby services and facilities. As previously set out in the consideration of this scheme, it is not imperative that both routes are provided. As such, if Members did have concerns regarding pedestrian access through the joinery yard, I am of the view that condition 1 could be amended to require the reserved matters to demonstrate how use of the joinery yard route would be deterred for future residents.



### 3. CONCLUSION

- 3.1 The overall planning policy context within which the planning application is now being considered is identical to when this proposal was reported to the Planning Committee on 10<sup>th</sup> February 2022 and 10<sup>th</sup> March 2022 where Officers recommended approval.
- 3.2 Since this time an independent highway review has been carried out. The review(s) have been attached in full (including the applicant's response to the initial review) with a very clear conclusion being drawn by the Council's consultant that the proposal is compliant with the relevant local and national highway policies.
- 3.3 As the Council remain unable to demonstrate a 5-year supply of housing land the 'titled balance' is engaged, directing decision makers to approve applications unless it is considered that any harm identified would significantly and demonstrably [my emphasis] outweigh the benefits. As such, it is not sufficient for harm to be identified, the harm must significantly and demonstrably outweigh the benefits for applications to be refused. In this case it is considered that the benefits outweigh the harm and the proposal constitutes sustainable development. Therefore, in accordance with the requirements of the NPPF, the application in my view should be approved.
- 3.4 On the basis of the above, in the event that the Planning Committee was minded to refuse the scheme for reasons related to highway impacts, I consider there would be a high likelihood that such a refusal would not be credible at appeal. This is based on the fact that both KCC Highways & Transportation, and separately an independent highway consultant has assessed the scheme in detail and concluded that the proposals are in accordance with the relevant local and national highway policies. At an appeal it would be expected that the Council was able to defend reasons for refusal with appropriate technical evidence. In this case, the lack of any technical evidence to support a reason for refusal on these grounds would, as well as likely resulting in an Inspector allowing an appeal, also mean in my view that there would be a high risk of costs being awarded against the Council at an appeal in such a scenario.

### 4. RECOMMENDATION

GRANT planning permission subject to the signing of a suitably worded Section 106 agreement and the following conditions. And with delegated authority to amend the wording in the s106 agreement and of conditions as may reasonably be required.

- 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 and a minimum of 5 compensatory parking spaces.

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) 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.

- 5) 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.

- 6) 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.

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) The drainage scheme shall also demonstrate (with reference to published guidance):
- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
  - appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

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

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are

required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

- 8) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system, and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate 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.

- 9) 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.

- 10) 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.

- 11) 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.

- 12) 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.

- 13) 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 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-approvedchargepoint-model-list>
  - All gas-fired boilers to meet a minimum standard of <40mgNOx/kWh

Reason: In order to prevent pollution.

- 14) 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 consumption and sustainability.

- 15) 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.

- 16) 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.

- 17) 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.

- 18) 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.

- 19) The details submitted pursuant to Condition (1) shall show a structural landscaping scheme which 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.

Reason: In order to mitigate the visual impact of the proposed development and to ensure biodiversity enhancements.

- 20) 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.

- 21) 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.

- 22) The site access details as shown on drawing 49905/5501/005E shall be completed prior to the occupation of any dwelling hereby approved.

Reason: In the interests of highway safety and amenity and sustainable development.

- 23) 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.

- 24) 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.

- 25) The visibility splays as shown on drawing 49905/5501/005E shall be provided and thereafter maintained with no obstructions over 0.9m above carriageway level within the splays, prior to the use of the site commencing.

Reason: In the interests of amenity and sustainable development.

- 26) Provision and maintenance of 2m x 2m 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.

- 27) 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 drawing 49905/5501/004 B and the scheme implemented in accordance with the outcome of that Traffic Regulation Order application.

Reason: In the interests of amenity and sustainable development.

- 28) Prior to the construction of any dwelling 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).

- 29) 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.

- 30) 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.

- 31) 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.

- 32) 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.

- 33) 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 dwellings. The infrastructure shall be 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.

- 34) 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.

- 35) 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.

- 36) 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.

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

- 37) A development brief for the site, developing the (appropriate) details shown in the submitted indicative details, shall be submitted to and approved in writing prior to the submission of the first reserved matters application. Thereafter the details submitted under condition 1 (the reserved matters) shall be informed by the approved development brief.

Reason: In the interests of visual amenities.

- 38) The off-site highway works as shown on drawing number 49905/5501/005 E (including the footway and priority shuttle working on Lynsted Lane) shall be completed prior to the occupation of any dwelling hereby approved.

Reason: In the interests of highway safety and 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. 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.

### **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.





## Technical Note

### Highways Review

Project	Land to the East of Lynsted Lane, Teynham	Job No	1000007836
Subject	Highways Review – Technical Note	Issue	02
Prepared by	Olivia Reed	Date	12/04/22
Approved by	Ben Meekings	Date	12/04/22

### Introduction

- 1.1 Swale Borough Council (SBC) has commissioned Project Centre (PCL) to provide a Technical Note (TN) reviewing highway matters relating to:
  - Land To the East of Lynsted Lane, Teynham - Outline application for the erection of up to 10 no. residential dwellings with associated landscaping, road layout and parking.
- 1.2 Detailed matters of appearance, landscaping, layout and scale are to be established at reserved matters stage with access to be determined at outline planning stage.
- 1.3 We note that a Transport Statement (TS) was submitted in support of the application in May 2021 for up to 10 dwellings with access onto Lynsted Lane. The TS details pedestrian and vehicular access along with details relating to the site.
- 1.4 We have reviewed the submitted information in relation to this application.
- 1.5 Further information is required before the proposal can be fully supported, which is summarised as part of this TN's conclusion.



### Policy Context

#### National Policy

- 2.2 We have reviewed the TS in relation to national planning policies, noting:
- National Planning Policy Framework (NPPF)
    - Appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location (para. 110);
      - We note that the TS outlines there are infrequent bus services throughout the week, which may be unattractive for those residing at the site.
    - Safe and suitable access to the site can be achieved for all users (para. 110);
      - We note that the suitability of the access is not supported until further evidence has been provided, as requested in this TN.
    - The design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code (para. 128);
      - All detailed matters are reserved for subsequent approval except for access to Lynsted Lane. Additional information is required relating to the access, as discussed.
    - Any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (para. 104).
      - Vehicle trip generation for the site is anticipated to be low, in relation to a development yield of 10 dwellings.
      - The applicant has identified that there is an on-going network issue in the area, including the junction of Lynsted Lane and A2.
-



- We acknowledge that traffic generated by the site during the AM and PM peaks is unlikely to be severe in relation to junction capacity and operation.
- In NPPF (para. 111); *“development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*.
  - Further evidence is required to deem the site access is suitable for purpose and therefore the proposal cannot be supported on highway grounds.
- National Planning Practice Guidance (NPPG)
  - NPPG notes how Transport Statements can positively contribute to different transport and highway improvements. The TS should therefore outline how the development contributes to:
    - Encouraging sustainable travel,
    - Lessening traffic generation and its detrimental impacts,
    - Reducing carbon emissions and climate impacts,
    - Creating accessible, connected, inclusive communities,
    - Improving health outcomes and quality of life,
    - Improving road safety; and;
    - Reducing the need for new development to increase existing road capacity or provide new roads.
  - We do not consider the development adheres to critical national policies, notably those relating to the suitability of the site access, which should be addressed at this stage.



### Local Policy

2.3 We have reviewed the TS in relation to local planning policies, noting:

- Local Transport Plan for Kent (LTP4)
    - It is acknowledged that the site sits between Sittingbourne and Faversham and no policies directly relate to Teynham, however, LTP 4 relates to Kent as a whole and therefore the applicant should demonstrate how the development meets the 5 outcomes outlined in Paragraph 2.3.5 of the TS.
  - KCCs Active Travel Strategy
    - We acknowledge that the proposed development is located within proximity of existing public transport facilities, however, existing services are infrequent and may be unattractive for future residents.
    - We acknowledge the applicant proposes to enhance pedestrian connectivity on Lynsted Lane which will improve connectivity to existing public transport services.
    - Further information is required detailing how the development adheres with KCC active travel strategies.
  - The Swale Borough Local Plan
    - The applicant draws on policies outlined in the SBC Local Plan, however, provides no explanation to how the development will adhere to these local policies, notably those relating to transport strategies and core policies.
    - The applicant should demonstrate how the proposal will meet the key aims and objectives outlined in Section 2.5 of the TS, notably how public transport will be promoted as an increasingly attractive alternative to private car use and increased use of local bus services.
  - Swale Transport Strategy
    - Section 2.6 of the TS outlines the key aims for the Swale Transport Strategy, however, the applicant has not demonstrated
-



how the development site adheres to these aims, which should be demonstrated.

- SBC Parking Policy
  - We have reviewed the proposed vehicle parking provisions and note that 2 parking spaces per dwelling is proposed, which is compliant with SBC Parking Policies, although it is also noted that precise details of parking spaces will be considered at the reserved matters stage.

2.4 Based on the above, we do not consider the development to adhere to critical national and local policies at this stage. Further information if required demonstrating how the development adheres to the policies discussed above.

#### **Site Access**

2.5 Access to the proposed site is as follows:

- 5.5m wide carriageway,
- 6m junction radii, and
- 2m footpath widths at the site access point.
- Extension of the proposed footpath north towards the A2 on the eastern side of Lynsted Land, measuring approximately 1.5m in width.

2.6 It is noted that we have not reviewed any drawing files at the time of this review (PDF copies only provided) and cannot confirm these geometries.

2.7 Plans submitted to support the application (Drawing number: 49905/5501/001) show visibility splays of 2.4m x 43m in both directions on Lynsted Lane. We acknowledge that these splays are compliant with Manual for Streets (MfS) requirement for 30mph roads.

2.8 The submitted transport statement notes the above visibility splays can be achieved in both directions; however, significant vegetation will have to be removed for this to be obtainable. Whilst not a highways issue, the impact of this from ecology and amenity perspectives should be considered.



- 2.9 There has been no update to the outline TS report discussing the proposed changes to Lynsted Lane (shown in Figure 1), which involves a priority give way control just north of the proposed site access.
- 2.9 The visibility splay plans should be updated with the required visibility splays in relation to the revised layout. This should demonstrate sufficient safe stopping sight distance (SSD) can be achieved on approach to the give way control.

Figure 1: Revised Layout on Lynsted Lane



- 2.10 A site visit was conducted by PCL staff in March 2022 which confirmed that vehicles informally park on both the western and eastern sides of Lynsted Lane, as shown in Figure 2 and Figure 3, respectively.



Figure 2: Parking on Lynsted Lane, Eastern Side



Figure 3: Parking on Lynsted Lane, Western Side



- 2.11 The proposed double yellow lining should extend for the full length of the required SSD visibility splay, notably to the south on the eastern side of Lynsted Lane, to ensure visibility splays are not obstructed.

**Refuse Collection and Servicing Tracking**

- 2.12 We have reviewed the vehicle tracking plans, which demonstrate refuse vehicles entering and existing the site in a forward direction, which is supported for the most part.
- 2.13 It is noted that the tracking for all movements should be rerun to take into consideration the proposed road layout changes on Lynsted Lane.
- 2.14 After reviewing the submitted vehicle tracking plans, it is considered that the refuse vehicle cannot manoeuvre from the shown location (shown below in Figure 4), due to on existing carriageway parking.
- 2.15 It is considered that due to the on street parking the refuse vehicle will arrive from the south in the opposite traffic lane, closer to the eastern kerb line.

Figure 4: Unsupported Vehicle Tracking (Right Turn into Site)



- 2.16 The vehicle tracking for this movement should be rerun taking into consideration a realistic approach for the refuse vehicle.

- 2.17 In addition, the left turn movement out of the site appears to show the wheels of the refuse vehicle striking the proposed eastern kerb line, south of the access point.
- 2.18 As we have seen no carriageway measurements in this location, we also question whether a refuse vehicle could turn out of the site in this direction and pass parked vehicles on Lynsted Lane.

Figure 5: Unsupported Vehicle Tracking (Left Turn Egressing Site)



- 2.19 The vehicle tracking for this movement should be rerun demonstrating no kerbs will be struck by servicing vehicles. The plans should also demonstrate that there is enough carriageway width for servicing vehicles to undertake this manoeuvre and pass parked vehicles on the western side of Lynsted Lane.



- 2.20 The applicant notes that fire tender swept paths have been undertaken at the proposed site access point but have not been provided. It is requested that these plans are provided at the outline planning stage to ensure the proposed access can accommodate emergency vehicle access.

#### **Lynsted Lane**

- 2.21 We have no comments on the proposed pedestrian crossing points and footpath widening on Lynsted Lane, as agreed with KCC.
- 2.22 As mentioned above, visibility plans should be updated demonstrating that sufficient SSD can be achieved on approach to the proposed give way control.

#### **Parking Surveys**

- 2.23 We have reviewed the submitted parking methodology and surveys, as requested by SBC. The applicant has primarily focused details of the parking survey which relate primarily to Lynsted Lane, which is rural in nature and has limited attractors apart from a small church.
- 2.24 We note that the survey methodology is not fully compliant with the Lambeth Parking Survey Methodology, noting a weekday and a weekend day was surveyed, instead of two weekdays.
- 2.25 From the parking survey information provided by the applicant in Appendix D of the TS, it is not clear how much parking is proposed to be removed on Lynsted Lane as a result of the proposal, to accommodate the proposed site access.
- 2.26 With that said, it appears that if the 11 identified parking spaces on Lynsted Lane, close to the junction with the A2, were removed, these spaces could be accommodated elsewhere on Lynsted Lane, given the parking stress identified.
- 2.27 We ask the applicant to provide additional evidence that any loss of on street parking can be accommodated. We acknowledge that the applicant aims to provide three overspill parking spaces within the site to accommodate a loss of parking on Lynsted Lane, which should be secured as part of a planning condition.



### **Impacts to Existing Bus Routes**

2.28 We have reviewed the existing bus service information for routes operating on Lynsted Lane as per the TS, noting:

- 345 Service:
  - 5 services per day, Monday to Friday,
  - 1 service on a Saturday.
- 662 Service – School service, with one bus arriving in the AM and PM.

2.29 Given the infrequent services on Lynsted Lane, we have not seen any evidence that the proposed give way control on Lynsted Lane, or the proposed development in general, will have an adverse impact on existing bus services.

### **Trip Generation and Distribution**

2.30 We have reviewed the submitted trip generation and distribution methodology, notably Appendix E.

2.31 We consider the TRICS site selection suitable for the development, for the most part. We do note that some of the selected sites are considerably larger than the proposal (>50 dwellings, with some sites up to 112 dwellings). Nevertheless, we note that the development is only anticipated to generate 11 two-way person movements in the AM peak and 10 two-way person movements in the PM peak, and we are satisfied the development is not going to have a material impact on the local highway network.

### **Conclusions**

3.1 To conclude:

- PCL have reviewed highways matters relating to an outline planning application for a residential development at Lynsted Lane,
- For the most part, the development proposal is considered appropriate in principle, however, further information is required before the proposal can be fully supported at the outline stage, which include:

## PROJECT CENTRE

- o Demonstrate the suitability of the development in relation to national and local policy, as highlighted throughout this TN,
- o Determine the extent of parking restrictions required on Lynsted Lane, so that visibility is not obstructed at the site access. We note this should be included on the revised layout for Lynsted Lane which proposes give way controls on Lynsted Lane,
- o Demonstrate that suitable SSD can be achieved on approach to the Lynsted Lane give way control,
- o Update the vehicle tracking assessment, ensuring there is a realistic start location for vehicles when accessing and egressing the proposed site. This should also include swept paths for fire tender vehicles, to ensure the proposed access arrangement is suitable for emergency access.
- o Demonstrate that any loss of parking on Lynsted Lane can be accommodated elsewhere along the road, within a suitable walking distance.
  - Overspill parking within the site boundary, as proposed by the applicant should be secured as part of a planning condition.



## TECHNICAL NOTE

**Job Name:** Lynsted Lane, Teynham  
**Job No:** 332410730  
**Note No:** TN02  
**Date:** 9<sup>th</sup> May 2022  
**Prepared By:** Gareth Elphick  
**Subject:** Land off Lynsted Lane, Teynham (planning ref: 21/502609/OUT) - Response to Project Centre Report (1000007836)

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### 1. Introduction

- 1.1. Stantec has been appointed by Eden (Teynham) Limited to provide transport support in relation to a planning application for a proposed housing development east of Lynsted Lane, Teynham (Swale District).
- 1.2. This site has been submitted to Swale Borough Council (SBC) under application 21/502609/OUT<sup>1</sup> for (up to) ten dwellings. As part of the planning process SBC commissioned Project Centre to write a highways opinion. This has been provided as Report 1000007836 (Issue 02) dated 12<sup>th</sup> April 2022.
- 1.3. This note (TN02) has been written to respond to the points in the note produced by Project Centre and provide assurance to SBC that there are no substantive concerns in highways or access terms.
- 1.4. Whilst not mentioned in the Project Centre report, Stantec understand that there are no outstanding concerns raised by KCC Highways, and also note that both options for Lynsted Lane have been subject to a Road Safety Audit Stage 1. These reports and correspondence are lodged on the SBC Planning portal under the 21/502609/OUT reference.<sup>2</sup>
- 1.5. The Road Safety Audits were undertaken by Road Safety Answers, an independent audit company, under reports 440 and 489. We also understand that updated KCC Highways information has been previously provided by SBC officers to the members at the Planning Committee and the Planning Working Group, with the SBC case officer maintaining ongoing dialogue with KCC Highways. KCC Highways consultation responses of 26<sup>th</sup> October 2021 and 22<sup>nd</sup> December 2021 are noted as not offering any objection.
- 1.6. Stantec understand the required updates are for completeness but do note that certain elements such as visibility splays have already been demonstrated, but not necessarily shown on the drawings for both options being considered for pedestrian accessibility. Therefore, the drawings have been updated to so both reflect:
  - The new footway on Lynsted Lane
  - The pedestrian access via the NE corner of site
- 1.7. Project Centre have listed their commentary in sub-sections. Some of these sub-sections seem to be included for completeness only as either no, or minimal, points, are raised: The sub-sections are:

<sup>1</sup> Outline application for the erection of up to 10no. residential dwellings with associated landscaping, road layout and parking. (Access being sought). | Land To The East Of Lynsted Lane Lynsted Kent ME9 9QN  
<sup>2</sup> <https://pa.midkent.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>



## TECHNICAL NOTE

- Policy Context
- Site Access
- Refuse Collection and Servicing Tracking
- Lynsted Lane (no comments on the proposed pedestrian crossing points)
- Parking Surveys (no substantive comments on parking beat surveys, and points summarised as expected planning condition)
- Impacts to Existing Bus Route (no points raised)
- Trip Generation and Distribution (no points raised)

1.8. The points raised by Project Centre are minor and the conclusion states:

*'For the most part, the development proposal is considered appropriate in principle'.*

1.9. However, any requests for further information are addressed in this note.

1.10. These points are not substantive in the context of an outline planning application. However, we appreciate that members are seeking more surety at this time and thus Stantec have addressed the Project Centre points to a satisfactory conclusion.

## 2. Requested Updates

2.1. These requests are listed based on the Project Centre conclusion, and cross-referenced to sub-sections, with completed/required actions as:

### Policy Context

2.2. Project Centre state that the application should:

*'Demonstrate the suitability of the development in relation to national and local policy, as highlighted throughout this TN'*

2.3. Response:

2.4. Policy points regarding safety, notably the access, are responded to later in this document with the specific points addressed.

2.5. With regards the remaining narrative, Stantec note the policies listed by Project Centre have been cited in the Stantec Transport Statement (49905/8545). Whilst these policies have detailed sub-elements, it does not seem proportionate for a ten dwelling site proposal to explore any further than just affirming the site has been deemed sustainable in transport terms and that all reasonable efforts have been made to promote sustainable modes (public transport and active travel) and discourage car usage. Furthermore, the completion of a Road Safety Audit and agreement of the Highway Authority confirms that there should not be any conflict against policy in terms of safety and traffic capacity. This is outlined in the Policy Response section of the TS 2.9.





## TECHNICAL NOTE

- 2.6. This response does not aim to dismiss the policy points listed by Project Centre, but to emphasise that the documents LTP4, Swale Local Plan and KCC Active travel strategy are high level policy documents which acknowledge that some trips will still be car-based, but that efforts towards sustainable modes are important to promote. Notwithstanding this high-level response, Stantec would point out that the bus and train accessibility for Teynham, as well as close access to shops and services, and thus the proposal site, has been addressed in the Transport Statement in Section 3. The walk to the train station, and to the bus stops, also contribute to active travel. This was noted within the TS at paragraph 2.4.3.

### Site Access 1

- 2.7. Project Centre state that the application should:

*'Determine the extent of parking restrictions required on Lynsted Lane, so that visibility is not obstructed at the site access. We note this should be included on the revised layout for Lynsted Lane which proposes give way controls on Lynsted Lane,'*

*'Demonstrate that suitable SSD can be achieved on approach to the Lynsted Lane give way control'*

- 2.8. **Response:**

- 2.9. Please see updated drawing 49905/5501/005E which has confirmed visibility splays and SSD. These meet the requirement of Manual for Streets (MfS), Kent Design Guide and also considered DMRB CD109. The SSD is shown as 70m, using DMRB for a 30mph/50kph road but this is a robust overapplication, and 43m is sufficient commensurate with the agreed approach with KCC Highways for the site access visibility splays (as per MfS and 30mph). This approach itself is deemed particularly robust because the nature of the road, parked cars and approaching/leaving a junction would result in a speed under the 30mph posted.

### Site Access 2

- 2.10. Whilst not in the conclusion we note that paragraph 2.11 has a further suggestion as:

*'The proposed double yellow lining should extend for the full length of the required SSD visibility splay,'<sup>3</sup> 'notably to the south on the eastern side of Lynsted Lane, to ensure visibility splays are not obstructed.'*

- 2.11. **Response:**

- 2.12. In terms of extending the yellow lining to the south on the eastern side of the road (access visibility splay side), as suggested as the most pertinent, this is clearly not problematic but is also likely unnecessary as parking alongside the hedgerow is unlikely and not witnessed in the parking beat survey. Nonetheless Drawing 49905\_5501\_004 has been updated to so show this extra 'eastern side' lining. This drawing is appended (49905\_5501\_004B)

- 2.13. Stantec would also likely reaffirm that the design approach to the south had been 'corner-protection', and this had been deemed sufficient in previous dealings with KCC Highways and the Road Safety Auditor.

### Refuse Collection and Servicing Tracking

- 2.14. Project Centre state that the application should:

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<sup>3</sup> Stantec have assumed this sought the visibility splay of 43m from access rather than the DMRB SSD of 70m from the priority working.



## TECHNICAL NOTE

*'Update the vehicle tracking assessment, ensuring there is a realistic start location for vehicles when accessing and egressing the proposed site. This should also include swept paths for fire tender vehicles, to ensure the proposed access arrangement is suitable for emergency access.'*

2.15. **Response:**

- 2.16. Please see updated drawing 49905/002E, where parked cars have been added for context for the movement of the refuse freighter. The start position is also clearly shown in a 'realistic' position. This drawing addresses the points in Figure 4 and Figure 5 of the Project Centre. Clearly a fire tender is a much smaller vehicle and thus can also access the site. The double yellow lines remain unchanged, on the western side, and a large car is shown parked at the immediate cessation of the markings.

### Parking Surveys

- 2.17. Project Centre state that the application should:

*'Demonstrate that any loss of parking on Lynsted Lane can be accommodated elsewhere along the road, within a suitable walking distance.' 'Overspill parking within the site boundary, as proposed by the applicant should be secured as part of a planning condition.'*

2.18. **Response:**

- 2.19. In terms of additional parking spaces within the site, the outline application, which is informed by the Transport Statement and Parking Beat Survey (accepted by KCC Highways and SBC as accurate) suggests 3 compensation spaces are appropriate. Please refer to drawing 49905\_5501\_004 within the application documentation (appended to this document for convenience)
- 2.20. This quantum was discussed and justified in the TS (paragraphs 4.6.6, 4.6.7 and 4.6.8). The TS considered what was observed in terms of parking (in particular Lynsted Lane itself), and also the possible, but unused parking, for both near the A2 (eastern side of Lynsted Lane) and further south on Lynsted Lane (western side). A conclusion was reached in paragraph 4.6.10
- 2.21. In addition, Table 4.1 (p18 of TS) showed the parking beat summary. This was for the full radius of the Lambeth Methodology and is replicated below (with the 'very low' parking stress<sup>4</sup> added for context), with an additional smaller analysis of just Lynsted Lane. This is shown as a total and also disaggregated further between the eastern and western sides. This extra disaggregation is for completeness. However, a parking beat analysis should be at the area level.

	Whole radius (including A2)	
	23 Feb 21	28 Feb 21
Total Number of Spaces	76	76
Peak Occupancy	30	28
Empty Spaces	38	40

<sup>4</sup> 90% is deemed the indication that parking stress is becoming apparent.



## TECHNICAL NOTE

Stress	39%	37%
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Table 1: Parking beat survey results (reproduced and extended from TS)

	Lynsted Lane		Eastern side (near A2)		Western side (further south)	
	23 Feb 21	28 Feb 21	23 Feb 21	28 Feb 21	23 Feb 21	28 Feb 21
Total Number of Spaces	24	24	9	9	15	15
Peak Occupancy	7	7	4	4	3	3
Empty Spaces	17	17	5	5	12	12

Stress	29%	29%	44%	44%	20%	20%
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Table 2: Parking beat survey results (Lynsted Lane only)

- 2.22. Even if the yellow lines are extended on the western side of Lynsted Lane (albeit not proposed as noted above) the narrative in the TS (para 4.6.10), albeit a slightly longer distance and updated to two parking observations, is still valid and replicated, with minor changes below.
- 2.23. *There is no significant disbenefit to users (two only seen in the parking beat survey) who park opposite the proposed access or within 43m to the south, as the double yellow lines do not extend excessively south, and parking can easily relocate to the area outside of the proposed lining' (bold is amended text) –*
- 2.24. For convenience the parking beat survey plans that were presented in the TS (as Appendix D) have been reappended. In addition to any compensation parking provided within the site, circa 10 spaces are available south of the promoted double yellow lines, which provides parking within a reasonable walking distance of any lost 'potential' parking. As shown above parking stress of well below 90% is noted on Lynsted Lane.
- 2.25. The Project Centre reference to Lambeth Methodology and two weekdays as standard is noted. However, KCC Highways find one weekday and one weekend more suitable for their consideration, noting differences between Kent and London.
- 2.26. The final level of compensation parking would be a Reserved Matter and we would therefore suggest that this is dealt with at Reserved Matters stage. However, we have confirmed with the scheme architect, OSG Architecture, that several additional compensation parking spaces can be made readily available on the site with little change to the current indicative layout (and could easily be accommodated on the western side of the site). It is considered that 5 compensation parking spaces can be accommodated within the site and this can be secured by planning condition and dealt with in detail at reserved matters stage.



## TECHNICAL NOTE

### 3. Conclusion

- 3.1. Stantec have noted the points and requests within the Project Centre report 1000007836 (Issue 02), dated 12th April 2022.
- 3.2. The report stated that '*For the most part, the development proposal is considered appropriate in principle*', but some minor requests for further information have been addressed.
- 3.3. Updated drawings are appended. The conclusion of the TS is reaffirmed with the final point of that section (6) reiterated.  
  
*'In overall terms the development is not anticipated to result in severe transport or traffic capacity issues on the local networks, in accordance with the key test in Paragraph 109 of the NPPF.'*
- 3.4. Safety has been deemed considered with the 2 RSA Stage1 provided in the application.

**TECHNICAL NOTE**

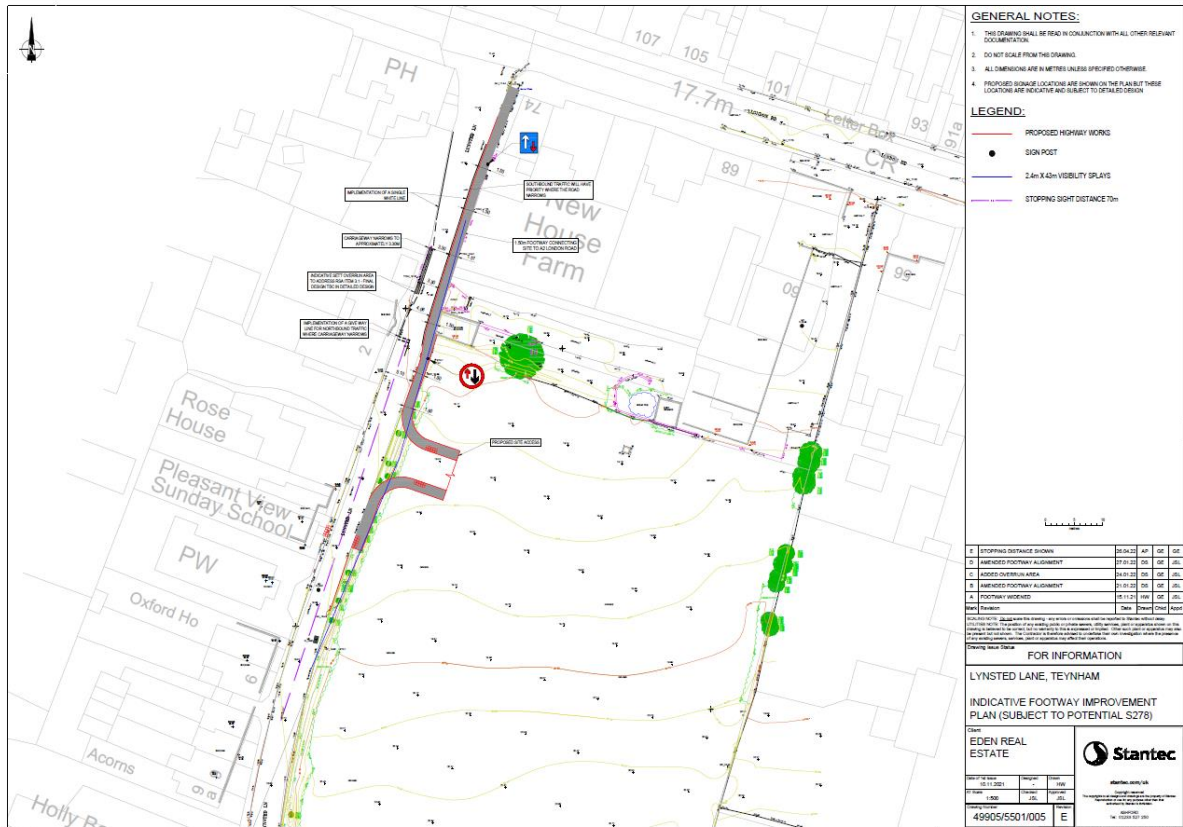


Appendix A Stantec Drawing 49905\_5501\_005E – updated to confirm visibility splays and SSD

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J:\49905 - JSL - Lynsted Lane Teynham\BRIEF 5501 - Transport\TECHNICAL NOTES\49905\_TN02\_Response to Project Centre\_final.docx

Page A



APPENDIX 2



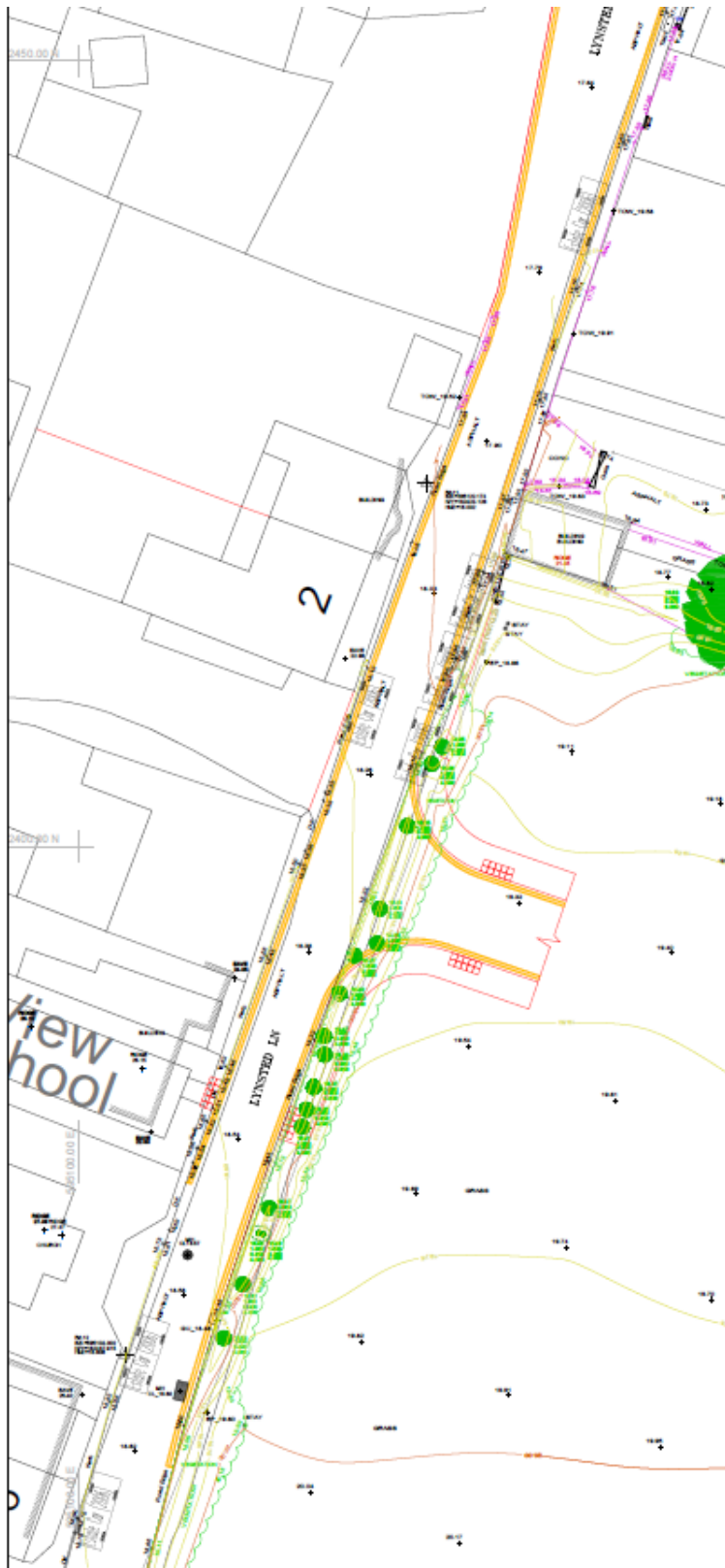
**TECHNICAL NOTE**



Appendix B 49905\_5501\_004 and 49905\_5501\_004B – double yellow line markings with parking heat survey information



APPENDIX 2



**GENERAL NOTES:**


1. THIS DRAWING SHALL BE READ IN CONJUNCTION WITH ALL OTHER RELEVANT DOCUMENTATION.
2. ALL DIMENSIONS ARE IN METRES UNLESS SPECIFIED OTHERWISE.
3. PARKING BEAT SURVEY UNDERTAKEN ON TUESDAY 23RD FEBRUARY AND SUNDAY 28TH FEBRUARY. BOTH SURVEYS SHOW SAME NUMBER AND SIMILAR LOCATION OF PARKED CAR ALONG LYNSTED LANE.
4. THERE IS 1 CAR WHICH WOULD BE EFFECTED BY THE PROPOSED INTRODUCTION OF YELLOW LINES, A FURTHER 4 ARE PARKED WITHIN THE EXTENT OF THE YELLOW LINES BUT THIS IS UNAUTHORISED PARKING ON THE BANK.

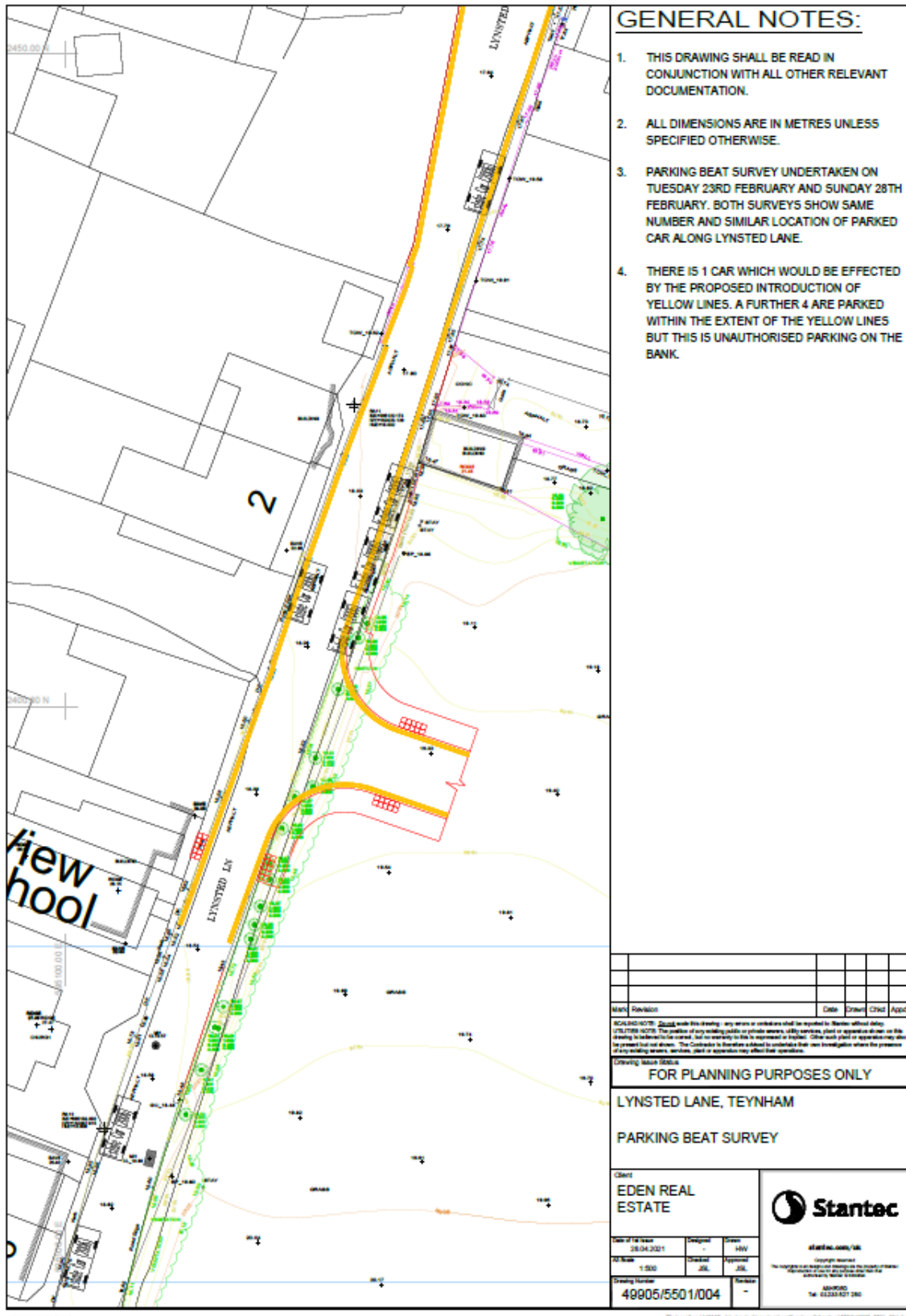
W	DOUBLE YELLOW EXTENSION	04.05.22	AP	GC	JSL
A	LAYOUT UPDATING	03.05.22	AP	GC	JSL
Mark	Revision	Date	Drawn	Check	Appd

NOTED NOTE: Check with the client any errors or omissions shall be reported to them without delay.  
 (2) THE CLIENT: The position of any existing building or structure, utility services, plant or equipment shown on this drawing is believed to be correct, but no warranty is made as to its accuracy or condition. Other work shown on this drawing shall be provided by the client. The Contractor is to be held responsible to undertake their own investigation where the presence of any existing services, structures, plant or equipment may affect their operations.

FOR PLANNING PURPOSES ONLY

LYNSTED LANE, TEYNHAM  
 PARKING BEAT SURVEY

Client		 <p>stantec.com/uk                  Company number:                  The position of any existing building or structure, utility services, plant or equipment shown on this drawing is believed to be correct, but no warranty is made as to its accuracy or condition. Other work shown on this drawing shall be provided by the client. The Contractor is to be held responsible to undertake their own investigation where the presence of any existing services, structures, plant or equipment may affect their operations.</p> APPROVED Tel: 02233 821 280
Date of release	28/04/2022	
Scale	1:500	
Drawing Number	49905/5501/004	
		B





**TECHNICAL NOTE**

Appendix C Parking beat survey plans for the two days

**DOCUMENT ISSUE RECORD**

Technical Note No	Rev	Date	Prepared	Checked	Reviewed (Discipline Lead)	Approved (Project Director)
49905/5501/TN002	-	25 Apr 22	GE	HW	JL	JL

This report has been prepared by Stantec UK Limited ("Stantec") on behalf of its client to whom this report is addressed ("Client") in connection with the project described in this report and takes into account the Client's particular instructions and requirements. This report was prepared in accordance with the professional services appointment under which Stantec was appointed by its Client. This report is not intended for and should not be relied on by any third party (i.e. parties other than the Client). Stantec accepts no duty or responsibility (including in negligence) to any party other than the Client and disclaims all liability of any nature whatsoever to any such party in respect of this report.

T: +44 (0) 123 352 7250 E: Ashford.UK@Stantec.com

J:\49905 - JSL - Lynsted Lane Teynham\BRIEF 5501 - Transport\TECHNICAL NOTES\49905\_TN02\_Response to Project

**K&M TRAFFIC SURVEYS**

DATE : TUESDAY 23RD FEBRUARY 2021

LOCATION : LYNSTED LANE, TEYNHAM, KENT

00:40 HOURS



K&M TRAFFIC SURVEYS

DATE : SUNDAY 28TH FEBRUARY 2021

LOCATION : LYNSTED LANE, TEYNHAM, KENT

00:30 HOURS



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## Technical Note

### Highways Review

Project	Land to the East of Lynsted Lane, Teynham	Job No	1000007836
Subject	Highways Review Response to Stantec Note (dated: 09/05/22)	Issue	03
Prepared by	Rob Franklin	Date	26/05/22
Approved by	Ben Meekings	Date	26/05/22

### Introduction

- 1.1 Swale Borough Council (SBC) commissioned Project Centre (PCL) to provide a Technical Note (TN) reviewing highway matters relating to:
- Land To the East of Lynsted Lane, Teynham - Outline application for the erection of up to 10 no. residential dwellings with associated landscaping, road layout and parking.
- 1.2 We (PCL) provided an initial highways review dated 12 April 2022, concluding further information was required before the proposal could be fully supported on highways grounds.
- 1.3 Stantec has provided a response dated 9 May 2022 (TN02), to our points deemed outstanding. This TN therefore outlines our concluding comments and the response provided by Stantec.
- 1.4 By way of summary, we consider the response provided by Stantec to be sufficient to address our initial concerns, noting:
- The scheme is considered compliant with relevant national and local highway policy,
  - Following conversations with Stantec and the evidence presented, the design of the site access is considered suitable,
  - We agree that the 5 compensation parking spaces which can be accommodated within the site should be secured by a planning condition, with the details determined at the reserved matters stage.

**PCL Comments and Stantec Response**

2.2 As per Section 1.7 of the Stantec response, our initial TN listed our commentary in subsections. For ease, these have been replicated and are included below.

2.3 Our issued comments are also bulleted below, with a summarised response from Stantec, detailing the key points, provided in italics.

**Policy Context**

- Demonstrate the suitability of the development in relation to national and local policy, as highlighted throughout this TN.
  - *With regards the remaining narrative, Stantec note the policies listed by Project Centre have been cited in the Stantec Transport Statement (49905/8545). Whilst these policies have detailed sub-elements, it does not seem proportionate for a ten dwelling site proposal to explore any further than just affirming the site has been deemed sustainable in transport terms and that all reasonable efforts have been made to promote sustainable modes (public transport and active travel) and discourage car usage.*
  - *Furthermore, the completion of a Road Safety Audit and agreement of the Highway Authority confirms that there should not be any conflict against policy in terms of safety and traffic capacity. This is outlined in the Policy Response section of the TS 2.9.*

2.4 Based on the above, when reviewing the information relating to the development, it was not clear which plans related to the preferred layout on Lynsted Lane, hence further clarification was required.

2.5 During the initial response, we had concerns relating to the operation and safety of the access arrangement, which have been addressed and discussed throughout this TN.

2.6 In addition, no evidence was submitted in relation to discouraging car use, however, we do acknowledge the proposed footpath extension on Lynsted Lane, which will accommodate trips to the village on foot.





- 2.7 Train and bus connections are not considered 'good' as outlined in the Transport Statement (TS), however, given the size of the development proposal, are not anticipated to put stress on existing services.
- 2.8 Based on the information provided, we have no further comments.
- *This response does not aim to dismiss the policy points listed by Project Centre, but to emphasise that the documents LTP4, Swale Local Plan and KCC Active travel strategy are high level policy documents which acknowledge that some trips will still be car-based, but that efforts towards sustainable modes are important to promote.*
  - *Notwithstanding this high-level response, Stantec would point out that the bus and train accessibility for Teynham, as well as close access to shops and services, and thus the proposal site, has been addressed in the Transport Statement in Section 3. The walk to the train station, and to the bus stops, also contribute to active travel. This was noted within the TS at paragraph 2.4.3.*
- 2.9 We acknowledge that public transport connections to the site have been discussed in Section 3 of the TS, as confirmed in our original response, however, existing bus services are infrequent and may be unattractive for future residents.
- 2.10 Section 3.3 of the TS confirms this, with only one bus (3X Service) being accessible on an hourly basis. Although we agree with Section 2.9.4 of the TS, that the site has bus and train connections, services within the immediate area are lacking, as demonstrated in the submitted TS.
- 2.11 We have seen no evidence in the TS to how the proposed development will support and enhance the existing sustainable transport network opportunities (as mentioned in Section 2.4.4 of the TS), nor encourage multimodal journeys (Table 5-4 of the TS anticipates only walking and vehicle trips during the peak hours).
- 2.12 With that said, we acknowledge that total trip generation from the site is anticipated to be low and as mentioned as part of our initial review, we are satisfied the development is not going to have a material impact on the local network.
-

## PROJECT CENTRE

- 2.13 As mentioned, given the size of the development proposal, the anticipated trip generation of public transport users is low and is not expected to put stress on existing services.

### Site Access

- Determine the extent of parking restrictions required on Lynsted Lane, so that visibility is not obstructed at the site access. We note this should be included on the revised layout for Lynsted Lane which proposes give way controls on Lynsted Lane.
  - Demonstrate that suitable SSD can be achieved on approach to the Lynsted Lane give way control.
    - *Please see updated drawing 49905/5501/005E which has confirmed visibility splays and SSD. These meet the requirement of Manual for Streets (MfS), Kent Design Guide and also considered DMRB CD109.*
    - *The SSD is shown as 70m, using DMRB for a 30mph/50kph road but this is a robust overapplication, and 43m is sufficient commensurate with the agreed approach with KCC Highways for the site access visibility splays (as per MfS and 30mph). This approach itself is deemed particularly robust because the nature of the road, parked cars and approaching/leaving a junction would result in a speed under the 30mph posted.*
- 2.14 We have reviewed drawing 49905/5501/005E and acknowledge visibility splays in both directions are achievable. We have no further comments.
- The proposed double yellow lining should extend for the full length of the required SSD visibility splay, notably to the south on the eastern side of Lynsted Lane, to ensure visibility splays are not obstructed.
    - *In terms of extending the yellow lining to the south on the eastern side of the road (access visibility splay side), as suggested as the most pertinent, this is clearly not problematic but is also likely unnecessary as parking alongside the hedgerow is unlikely and not witnessed in the parking beat survey. Nonetheless Drawing 49905\_5501\_004 has been updated to so show this extra 'eastern side' lining. This drawing is appended (49905\_5501\_004B)*
-

## PROJECT CENTRE

- *Stantec would also likely reaffirm that the design approach to the south had been 'corner-protection', and this had been deemed sufficient in previous dealings with KCC Highways and the Road Safety Auditor.*

2.15 We have reviewed drawing 49905\_5501\_004B and have no further comments.

### Refuse Collection and Servicing Tracking

- Update the vehicle tracking assessment, ensuring there is a realistic start location for vehicles when accessing and egressing the proposed site. This should also include swept paths for fire tender vehicles, to ensure the proposed access arrangement is suitable for emergency access.

- *Please see updated drawing 49905/002E, where parked cars have been added for context for the movement of the refuse freighter. The start position is also clearly shown in a 'realistic' position. This drawing addresses the points in Figure 4 and Figure 5 of the Project Centre. Clearly a fire tender is a much smaller vehicle and thus can also access the site. The double yellow lines remain unchanged, on the western side, and a large car is shown parked at the immediate cessation of the markings.*

2.16 We have reviewed drawing 49905/002E and acknowledge the revised tracking.

2.17 Through direct contact with Stantec on 24 May 2022, we have addressed all concerns relating to the vehicle tracking of the site access and have no further comments.

### Parking Surveys

- Demonstrate that any loss of parking on Lynsted Lane can be accommodated elsewhere along the road, within a suitable walking distance. Overspill parking within the site boundary, as proposed by the applicant should be secured as part of a planning condition.

- *The final level of compensation parking would be a Reserved Matter and we would therefore suggest that this is dealt with at Reserved Matters stage. However, we have confirmed with the scheme architect, OSG Architecture, that several additional compensation parking spaces can be made readily available on*

**PROJECT  
CENTRE**

*the site with little change to the current indicative layout (and could easily be accommodated on the western side of the site). It is considered that 5 compensation parking spaces can be accommodated within the site and this can be secured by planning condition and dealt with in detail at reserved matters stage*

2.18 We acknowledge the provided parking survey information and consider it acceptable.

2.19 We agree that the 5 compensation parking spaces which can be accommodated within the site should be secured by a planning condition, with the details determined at the reserved matters stage. We have no further comments.

**Conclusions**

3.1 To summarise:

- We consider the response provided by Stantec to be sufficient to address our initial concerns, as documented in our initial response dated 12 April 2022, noting:
  - The scheme is considered compliant with relevant national and local highway policy,
  - Following conversations with Stantec and the evidence presented, the design of the site access is considered suitable,
  - We agree that the 5 compensation parking spaces which can be accommodated within the site should be secured by a planning condition, with the details determined at the reserved matters stage.

**APPENDIX 4**

<b>2.5 REFERENCE NO - 21/502609/OUT</b>		
<b>APPLICATION PROPOSAL</b>		
Outline application for the erection of up to 10no. residential dwellings with associated landscaping, road layout and parking. (Access being sought).		
<b>ADDRESS</b> Land To The East Of Lynsted Lane, Lynsted, Kent, ME9 9QN		
<b>RECOMMENDATION</b>		
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.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
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.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Lynsted and Kingsdown Parish Council and Teynham Parish Council have both objected to the proposal		
<b>WARD</b> Teynham And Lynsted	<b>PARISH/TOWN COUNCIL:</b> Lynsted with Kingsdown	<b>APPLICANT</b> Eden Real Estate Group Ltd And FPC Income And Growth PLC <b>AGENT</b> ECE Planning Limited
<b>DECISION DUE DATE</b> EOT 25 February 2022	<b>PUBLICITY EXPIRY DATE</b> 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

**APPENDIX 4****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

**APPENDIX 4**

- 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).

**APPENDIX 4****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.



**APPENDIX 4**

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.”*

**APPENDIX 4****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

**APPENDIX 4**

- 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

**APPENDIX 4****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

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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.”

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- 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 Frogal Lane and Orchard View, Lower Road Teynham, whose

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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 NO<sub>2</sub> 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.

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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



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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\INetCache\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.

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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

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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

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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

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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

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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

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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

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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:

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	Per 'applicable' flat	Per 'applicable' House (x10)	Total	Project
<b>Primary Education</b>	£1160.50	£4642.00	£46,420.00	Towards Teynham Primary school expansion
<b>Secondary Education</b>	£1,294.00	£5,176.00	£51,760.00	Towards the new Secondary School construction upon land off Quinton Road, NW Sittingbourne policy MU1
<b>Secondary Land</b>	£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
<b>Community Learning</b>	£16.42	£164.20	Contributions requested towards additional equipment and resources at Sittingbourne Adult Education Centre
<b>Youth Service</b>	£65.50	£655.00	Contributions requested towards additional resources for the Youth service in Sittingbourne
<b>Library Bookstock</b>	£55.45	£554.50	Contributions requested towards additional services, resources, and stock at Teynham Library
<b>Social Care</b>	£146.88	£1,468.80	Towards Specialist care accommodation in Swale District
All Homes built as <b>Wheelchair Accessible &amp; Adaptable Dwellings</b> in accordance with Building Regs Part M 4 (2)			
<b>Waste</b>	£183.67	£1,836.70	Towards additional capacity at the HWRC & WTS in Sittingbourne
<b>Broadband:</b>	<b>Condition:</b> 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. <b>Reason:</b> To provide high quality digital infrastructure in new		

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	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); Aboricultural 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

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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.

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- 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

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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.

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- 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 NO<sub>2</sub> (nitrogen dioxide) and PM<sub>10</sub> and PM<sub>2.5</sub> 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.

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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.

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- 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



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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.”*

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- 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.

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- 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”.

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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”*

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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.

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- 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.

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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.

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- 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); Aboricultural 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



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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

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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;

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- 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

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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

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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

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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.

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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 recourse 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

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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,



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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.

**APPENDIX 4****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.

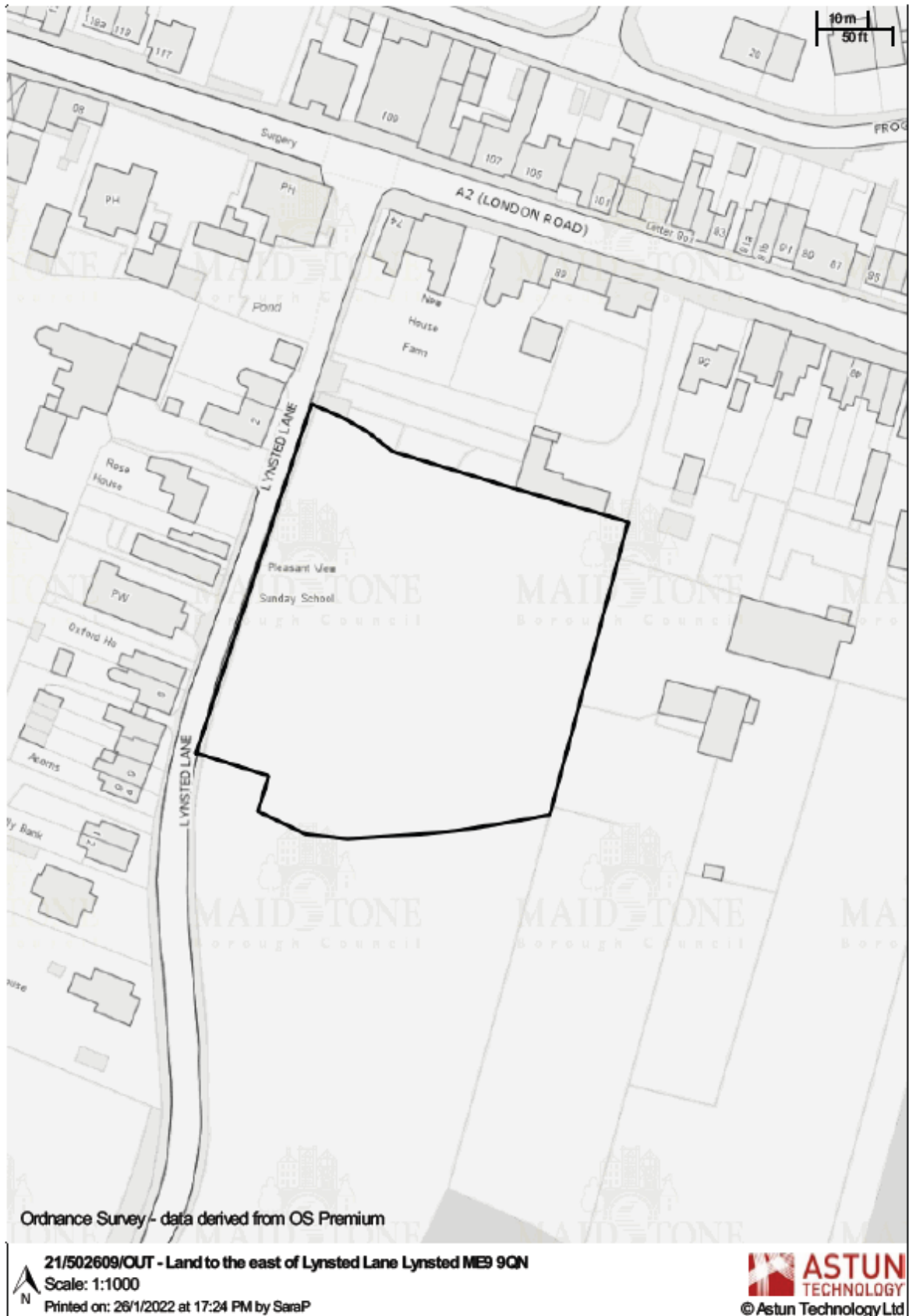
Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

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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/>).



<b>DEF ITEM 2 REFERENCE NO - 21/506021/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Section 73 - Application for variation of condition 3 (to allow take-away to be open 7 days a week from 16:30 to 22:00) pursuant to SW/06/0575 for - Change of use from retail (Class A1) to take-away (Class A5).		
<b>ADDRESS</b> 21 Chaucer Road, Sittingbourne, Kent, ME10 1EZ		
<b>RECOMMENDATION</b> - Approval		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b>		
Whilst the later opening hours proposed by the applicant are not considered to be appropriate during the week, in accordance with the advice received from the Environmental Health team, it is considered that, subject to condition, a revision could be made to the current opening hours to allow for limited Sunday opening hours and later opening hours until 10pm on Friday and Saturday without resulting in excessive noise pollution in accordance with the requirements of Policy DM14 of the Swale Local Plan 2017.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
This application was deferred by the Planning committee in March.		
<b>WARD</b>	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Mr Kishore Dey <b>AGENT</b> Architectural Designs
<b>DECISION DUE DATE</b> 11 <sup>th</sup> March 2022		<b>PUBLICITY EXPIRY DATE</b> 2 <sup>nd</sup> March 2022

## 1 Background

- 1.1 Members will recall that this application was previously reported to the Planning Committee on 10<sup>th</sup> March, and that the application was deferred due to a request for the Planning Enforcement Team to investigate complaints relating to breaches of planning control on the site, including the use of a storage room on the site as overnight living accommodation.
- 1.2 The Enforcement Team have investigated the issue and the site has been inspected. It was found that a storage room on the site was being used for occasional overnight accommodation for staff. However, it has been confirmed that the use of the storage room for this purpose has since ceased. This was also confirmed during a site visit.
- 1.3 The applicant recently submitted a planning application under application ref: 22/501800/FULL, seeking planning permission for a retrospective change of use of the storage room to a staff welfare room and for its use for occasional overnight sleeping accommodation. However, this application was refused on 1<sup>st</sup> June 2022.
- 1.4 As the application for the use of the storage room has now been refused and the use of the storage room for sleeping accommodation purposes has ceased, the enforcement issues are believed to have been resolved. Officers will continue to monitor the situation if further complaints are received in the future.

## 2 Appraisal

- 2.1 With regards to the current application which is before the Committee relating to an amendment to the permitted opening hours of the take-away restaurant, the application has not been amended since it was last presented to the Planning Committee and the officer recommendation in respect of the application remains unchanged. I would refer you to the Officer report which was presented to the Committee on 10<sup>th</sup> March, which sets out the reasons for recommending the application for approval. A copy of the report which was presented to the Committee is attached as **Appendix 1** for reference.
- 2.2 Members should also note that since the current application was presented to the Committee on 10<sup>th</sup> March 2022, an application to amend the opening hours of the Chinese take-away which is operating at 27 Chaucer Road was received under application ref: 22/501420/FULL. The application was approved under delegated powers on 17<sup>th</sup> May 2022. The revised permitted opening hours in respect of the Chinese take-away are now as follows:
- Monday-Thursday - 11.30am-9pm  
Friday to Saturday - 11.30am-10pm  
Sundays 4.30pm-8pm
- 2.3 These hours reflect those that are also sought under this application. Whilst complaints have also been received that the takeaway has been breaching current hours of operation, the appropriate mechanism would be to monitor such complaints and serve a breach of condition notice in the event that the business fails to comply with the extended hours.

### **3 CONCLUSION**

- 3.1 The officer recommendation in relation to the variation in opening hours remains unchanged and planning permission should be granted in accordance with the recommendations of the Environmental Health team for the following revised opening hours in accordance with the recommended condition as set out in the officer's report (**Appendix 1**):
- Monday-Thursday - 11.30am-9pm  
Friday to Saturday - 11.30am-10pm  
Sundays 4.30pm-8pm



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**APPENDIX 1**

<b>2.4 REFERENCE NO - 21/506021/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Section 73 - Application for variation of condition 3 (to allow take-away to be open 7 days a week from 16:30 to 22:00) pursuant to SW/06/0575 for - Change of use from retail (Class A1) to take-away (Class A5).		
<b>ADDRESS</b> 21 Chaucer Road Sittingbourne Kent ME10 1EZ		
<b>RECOMMENDATION</b> – Grant subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
Whilst the later opening hours proposed by the applicant are not considered to be appropriate during the week, in accordance with the advice received from the Environmental Health team, it is considered that, subject to condition, a revision could be made to the current opening hours to allow for limited Sunday opening hours and later opening hours until 10pm on Friday and Saturday without resulting in excessive noise pollution, in accordance with the requirements of Policy DM14 of the Swale Local Plan 2017.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
The application has been referred to the Planning Committee by Cllr Simon Clark owing to the concerns raised by local residents in relation to noise levels. Cllr Clark has also expressed concerns in relation to ongoing breaches of condition as the premises have been opening beyond 9pm and concerns relating to the conversion of a storage shed in the grounds of the property into living accommodation without planning consent.		
<b>WARD</b> Homewood	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Mr Kishore Dey <b>AGENT</b> Architectural Designs
<b>DECISION DUE DATE</b>  11/03/22		<b>PUBLICITY EXPIRY DATE</b>  06/01/22

**PLANNING HISTORY**

SW/06/0575

Change of use from retail (Class A1) to take-away (Class A5)

Approved Decision Date: 21.07.2006

SW/81/1247

Single storey extension

Approved Decision Date: 22.12.1981

**1. DESCRIPTION OF SITE**

- 1.1 The subject property is comprised of an end-terraced commercial unit with a self contained residential flat above. The commercial premises on the ground floor are

**APPENDIX 1**

currently being used as a take-away restaurant. The property forms part of a small purpose-built commercial shopping parade which provides a number of essential services to the residential properties in the surrounding roads. The parade contains two other take-away restaurants, and other shops including a local convenience store/newsagents. The wider area is predominantly residential.

1.2 The property lies in an urban area, within the built-up area boundary of Sittingbourne.

**2. PROPOSAL**

2.1 The application proposal relates to the variation of condition 3 of application ref: SW/06/0575.

2.2 The applicant seeks to vary the current permitted opening hours to allow the premises to remain open 7 days a week from 16:30 to 22:00.

**3. PLANNING CONSTRAINTS**

3.1 None relevant to this application

**4. POLICY AND CONSIDERATIONS**

4.1 National Planning Policy Framework 2021

4.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017

DM1 Maintaining and enhancing the vitality of town centres and other areas  
DM2 Proposals for main town centre uses  
DM14 General development criteria

**5. LOCAL REPRESENTATIONS**

5.1 Three local representations have been received, objecting to the proposal on the following grounds:

- Potential resultant noise pollution from the operation of the take-away business over longer periods and disturbance from the associated deliveries.

– Existing noise issues relating to staff not leaving the site in a timely manner

**6. CONSULTATIONS**

6.1 **Environmental Health Team** – Object to the principle of opening from 16.30-22.00 for seven days a week. However, they would support the principle of later opening hours on Friday and Saturday and the principle of opening on a Sunday as long as they were limited to be no later than 8pm.

6.2 **Ward Councillors** – Cllr Clark objects to the proposal owing to the concerns raised by local residents in relation to noise levels and concerns in relation to ongoing breaches of condition as referenced above.

**APPENDIX 1****7. BACKGROUND PAPERS AND PLANS**

7.1 Application papers for application 21/506021/FULL

**8. APPRAISAL**

8.1 Paragraph 031 of the NPPG on the Use of Planning Conditions states that 'In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application.' On this basis, an assessment under section 73 should be focused on the changes sought.

8.2 The application seeks to vary condition 3 of planning permission SW/06/0575.

8.3 The original application, which was granted on 21st July 2006, permitted a change of use from retail (Class A1) to take-away use (Class A5), and the decision was subject to the following condition:

8.4 Condition 3:

*'The premises shall not be open to the public other than between the hours of 11.30am and 9pm from Monday-Saturday and not at any time on Sundays and Public Holidays.'*

*Reason 'In the interests of residential amenity of local residents and in pursuance of policies S5 and G1 of the Swale Borough Local Plan.'*

8.5 There have been changes to both National Planning Policy and to the Local Development Plan for Swale since the application was granted. Accordingly the proposed changes to the specified condition shall be assessed against the current NPPF and the current adopted local plan for Swale (Bearing Fruits 2031: The Swale Borough Local Plan 2017).

8.6 The condition was originally imposed to protect the amenities of local residents. Policy DM14 of the Local Plan states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties, including excessive noise or odour pollution.

8.7 The site is located at the end of a parade of shops with flats above the units. The site is also adjacent to residential dwellings to the north.

8.8 Two other take-away businesses appear to be operating within the parade. A fish and chips shop is being operated from 18 Chaucer Road (Chaucer Fish Bar, which is permitted to open between 15.30-20.30 from Monday-Saturday) and a Chinese take-away is operating from 27 Chaucer Road (Yummy Yummy Chinese take-away, which is permitted to open between 11.30am and 21.00 from Monday-Saturday).

**APPENDIX 1**

- 8.9 It is acknowledged that allowing later opening hours will result in additional activity on the site after 9pm due to increased footfall from customers, delivery drivers and staff. In addition, it is likely that the later hours will impact when staff leave the premises after the take-away business has closed as some cleaning is usually required after hours. Given the nature of the business, a balance needs to be struck between reasonable operational needs and protection of residential amenity. The local representations received express concerns relating to the potential for undue noise and disturbance as a result of any potential extended opening hours, including the issue of staff leaving the site later in the evening and deliveries being made late at night. I note that whilst the current condition restricts opening hours to members of the public, it does not prevent staff from working later.
- 8.10 I have consulted with the Environmental Health team, who have advised that they are aware of some recent complaints made by local residents living in nearby premises and they do not recommend allowing an extension to the opening hours from Monday-Thursday, when local residents are likely to be working. However, they consider that allowing the business to open later on Fridays and Saturdays would be acceptable as they consider that there is a greater tolerance for slightly later opening at the weekend and they acknowledge the difficulties of running a take-away food business which has to close at 9pm on weekends. They also do not object to the principle of allowing the premises to operate on a Sunday, provided that the opening hours are limited to be no later than 8pm.
- 8.11 In light of the advice from Environmental Health, I consider it would be reasonable to allow the takeaway to open until 10pm on a Friday and Saturday and until 8pm on a Sunday. These extended hours would provide economic benefits to the business and I do not consider that they would cause unacceptable harm to the amenities of surrounding residential properties. However, in allowing such a modification to the opening hours, I also consider it would also be reasonable to amend the condition to oblige the staff to leave the premises within an hour after closing time. The amended opening hours would be as follows -
- Monday-Thursday – 11.30am-9pm (as per the existing planning permission)
- Friday/Saturday – 11.30am-10pm
- Sunday – 4.30pm-8pm
- 8.12 It is considered that amending the condition as proposed to limit the amount of time staff can remain at the premises after closing time should limit the potential for excessive noise pollution at anti-social times of day.

Parking/Highways

- 8.13 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with Kent County Council vehicle parking standards.

**APPENDIX 1**

- 8.14 As the take-away restaurant is already operating for six days a week and the proposed changes to the permitted opening hours allow for very limited increases to the hours of operation, it is considered that the proposed changes to the opening hours will not significantly impact the availability of parking in the area.

Other Matters

- 8.15 Some concerns have been raised by Cllr Clark in relation to an outbuilding in the rear garden and whether the building is being used to provide living accommodation without planning permission. The issue is currently being investigated by the Planning Enforcement Team as a separate matter to this planning application.

**9. CONCLUSION**

- 9.1 Whilst the proposed changes to the permitted opening hours from Monday-Thursday are not considered to be acceptable, it is recommended that a variation to condition 3 should be allowed to permit later opening hours until 10pm on Friday and Saturday. It is also recommended that the business should be permitted to operate on a Sunday from 4.30pm until 8pm. I am satisfied that the potential concerns relating to noise pollution could be controlled via condition to ensure that staff leave the premises within a set timeframe.

- 10. RECOMMENDATION - GRANT**, Subject to the following conditions.

**CONDITIONS**

- (1) The premises shall not be open to the public other than between the hours of 11.30am and 9pm from Monday-Thursday, between the hours of 11.30am and 10pm on Friday and Saturday and between the hours of 4.30pm and 8pm on Sundays and Public Holidays, and no staff shall be permitted in the premises any later than one hour after the above stated opening hours.

Reason: In the interests of preserving and protecting the amenity of local residents.

- (2) The mechanical ventilation system which has been installed pursuant to condition 2 of planning application ref: SW/06/0575 shall be maintained and operated in a manner which prevents the transmission of odours, fumes, noise and vibration to the neighbouring premises.

Reason: In the interests of preserving and protecting the amenity of local residents.

- (3) The use hereby permitted is limited to the ground floor only of the premises identified on the plans accompanying planning application ref: SW/06/0575.

Reason: For the avoidance of doubt and in the interests of preserving and protecting the amenity of local residents.

**The Council's approach to the application**

**APPENDIX 1**

Report to Planning Committee – 10 March 2022

ITEM 2.4

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.

**APPENDIX 1**



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## SWALE BOROUGH COUNCIL

### PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

**23 JUNE 2022**

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

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

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

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

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

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

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

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ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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## INDEX OF ITEMS FOR PLANNING COMMITTEE – 23 JUNE 2022

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

### DEFERRED ITEMS

DEF ITEM 1 21/502609/OUT            TEYNHAM            Land east of Lynsted Lane

DEF ITEM 2 21/506021/FULL        SITTINGBOURNE    21 Chaucer Road

### PART 2

2.1            21/502972/FULL        HERNHILL            Land South East Of A299 Slip Road  
off Highstreet Road

2.2            21/505936/FULL        QUEENBOROUGH    19-21 Mount Field

2.3            21/506474/FULL        UPCHURCH            Burntwick, The Street

2.4            22/501315/FULL        BORDEN              St Mawes, The Street

2.5            22/501387/FULL        GRAVENEY            2 All Saints View, Seasalter Road

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### PART 3

3.1            22/501078/FULL        MINSTER            Cripps Farm, Plough Road

### PART 5 – INDEX

5.1            21/502090/LAWPRO    SITTINGBOURNE    11 Challenger Close

5.2            21/503050/LDCEX      MINSTER            Iris Cottage, Elmley Road

5.3            20/504495/FULL        HERNHILL            Kemsdale Stud Farm  
Kemsdale Road

5.4            19/503694/FULL &    HARTLIP            New Acres Spade Lane  
18/501667/FULL

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**PLANNING COMMITTEE – 23 JUNE 2022****PART 2**

Report of the Head of Planning

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

<b>2.1 REFERENCE NO - 21/502972/FULL</b>		
<b>APPLICATION PROPOSAL</b> Change of use of land and erection of 35no. light industrial units with allocated parking and associated landscaping.		
<b>ADDRESS</b> Land South East Of A299 Slip Road Off Thanet Way Highstreet Road Hernhill Kent ME13 9EN		
<b>RECOMMENDATION</b> Grant, subject to conditions as set out below		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> Proposal is broadly in accordance with national and local planning policy		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council have objected to the scheme		
<b>WARD</b> Boughton And Courtenay	<b>PARISH/TOWN COUNCIL</b> Hernhill	<b>APPLICANT</b> Barton Bridging Capital <b>AGENT</b> Turner Jackson Day Associates
<b>DECISION DUE DATE</b> 27/11/21	<b>PUBLICITY EXPIRY DATE</b> 15/11/21	<b>OFFICER SITE VISIT DATE</b> 27/04/2022
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		

18/506384/FULL

Change of use of land and development of 34 no. general industrial units, a secure lorry park, cafe and associated landscaping. (Resubmission of 18/504147/FULL) as amended by drawings received 13/03/2019; 04/04/2019; 05/04/2019; 12/04/2019; and 02/05/2019  
Approved Decision Date: 09.10.2019

18/504147/FULL

Change of use of land and development of 43no. general industrial units, a secure lorry park, cafe and associated landscaping.  
Withdrawn Decision Date: 29.11.2018

Also relevant are the applications for the immediately adjoining site:

22/500287/NMAMD - Non-material amendment application: Location of proposed 13 units to be altered, and unit numbering to be changed to correspond & improve site coordination with current 35 unit scheme application 21/502972/FULL. Proposed units 42-48 floor area to be increased. All

13 units, fenestration to be altered to correspond and coordinate with application 21/505030/NMAMD. Providing a consistent materiality between both parts of the site in relation to planning permission 20/502407/FULL.

Awaiting decision

20/502407/FULL

The construction of thirteen commercial units (for general industrial, storage and distribution, and light industrial use), and associated parking and landscaping.

Approved Decision Date 08.03.2022

15/505213/FULL

Part retrospective application for the importation of waste material and engineering operations to form landscape bunds, construction of a 3 metre high Gabion basket stone wall, change of use of land and construction of van and HGV lorry park, access and construction of a roadside transport cafe for A3/A5 uses plus 24 hour WC and driver wash.

Approved Decision Date: 30.11.2016

## **1.0 DESCRIPTION OF SITE**

- 1.01 The site forms part of a vacant parcel of land. It is located on the south-east side of the A299 Thanet Way at the Dargate interchange, north east of Plumpudding Lane, and to the north-west of the slip road to the A299 (which as Members may be aware is part of the local road network maintained by KCC Highways and Transportation).
- 1.02 This parcel of land extends to 0.85 hectares and, for the avoidance of doubt, it does not include the remaining parcel of land, which is the subject of a separate planning application: 22/500287/NMAMD. Work has commenced on the structures of the industrial units.
- 1.03 The site is partly bounded by trees and vegetation to the northwest side adjacent to the Thanet Way. The northeast part of the site is partially visible from the highway, and there are existing bunds on these sides of the site, as well as to the southeast. The eastern part of the site comprises the vacant adjoining site, which will link up with this development if both applications are granted.
- 1.04 Directly to the southeast of the site is an existing business park and freight terminal. A short distance to the north of the site on the coast bound carriageway there is an established petrol filling station, a shop, a Travelodge and a café. On the London bound carriageway there is another filling station and a coffee shop.
- 1.05 To the northeast of the site, on Highstreet Road and Dargate Road, there are a number of residential properties. The closest of which is a minimum of approximately 120 metres from the application site.

## **2.0 PROPOSAL**

- 2.01 The proposal is for thirty-five new-build small industrial units with associated parking and landscaping.

- 2.02 Planning permission has already been granted for thirty-four small industrial units on this site, through 18/506384/FULL, which was approved following a decision by the Planning Committee at the meeting on 30 May 2019. Members will note that the size and design of the approved units was very similar to those now proposed. Therefore, whilst the proposal is technically seeking permission for thirty-five industrial units, in practice, the scheme would amount to only one industrial unit over and above the extant consent.
- 2.03 The additional industrial unit would be achieved by infilling the strategic gap between connecting blocks 1-4 and 5-10 on the extant consent, and creating a 11 unit uninterrupted block, parallel to the site boundary with the Thanet Way. The new unit would be 330sqm in size. The west facing flank wall of this block of industrial units will also be moved 2m closer to the western boundary of the site to help accommodate the new unit.
- 2.04 The 35 industrial units will be laid out in blocks of three blocks of 4 units, two x 6 units and one block of 11 units.
- 2.05 The industrial units, when completed, would be faced with grey panels, brick plinths, and windows to provide a visual variation in the appearance of the units. They would have the appearance of two-storey buildings, but with no first floor, making each unit single floor only, and have shallow, steel profile roofs. The units would each measure 8 metres by 12 metres floor area and extend to a ridge height of 8.5metres. Each unit would have two allocated parking spaces adjacent to the unit, and one delivery space outside the roller shutter door serving each unit.
- 2.06 This application is made retrospectively: as the brick plinths and steel frames for the 35 units have already been erected.
- 2.07 In tandem with this application, the applicants (Barton Bridging Capital) have submitted a Non Material Amendment (22/500287/NMAMD) application to increase the size of six of the industrial units on the site that immediately abuts this site to the east. In practice, if both applications are approved, when built out, both developments will read as one scheme, as they will be served by the same access point and spine roads.
- 2.08 The proposal is accompanied by a landscaping scheme, which shows a scheme of soft landscaping to the boundaries of the site as well as landscaping within the site, including a pond (the NMA scheme includes another pond). Specifically, the landscaping improvement works will include:
- 16 bird boxes
  - 6 bat boxes
  - Enhancements to the hedgerow along the northern, southern and western boundaries
  - Native trees along the northern, southern and western boundaries
  - 1 centrally located wildlife pond
  - A Wildflower meadow and strategic wildflower strips.
- 2.09 Vehicular access to the site would be provided from the slip road leading to/from the Thanet Way.
- 2.10 The applicant suggests that the development would support approximately 80 jobs. The buildings would be restricted to the following Use Classes: Class E (ancillary office space), B2 and B8

### 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.85ha	0.85ha	-
Combined floor area of development	3060sqm (Extant Consent)	3336sqm	+330sqm
Approximate Ridge Height (m) Industrial Units	-	8.2m	+8.2m
Approximate Eaves Height (m) (Industrial Units)	-	7.2m	+7.2m
Approximate Ridge Height (m) (Café)	-	3.5m	+3.5m
Approximate Ridge Height (m) (Café)	-	7.2m	+7.2m
Approximate Depth (m) (Industrial Units)	-	12m (per unit)	+12m (per unit)
Approximate Width (m) (Industrial Units)	-	8m (per unit)	+8m (per unit)
Parking Spaces	-	73	+ 73 (Total)

### 4.0 PLANNING CONSTRAINTS

4.01 Outside established built-up area boundaries. Inside Flood Zone 1 (low flood risk).

### 5.0 POLICY AND OTHER CONSIDERATIONS

#### The National Planning Policy Framework (NPPF) 2021

- 5.01 Chapter 2 – Achieving sustainable development  
 Chapter 6 – Building a strong, competitive economy  
 Chapter 9 – Promoting sustainable transport  
 Chapter 12 – Achieving well designed places

#### Bearing fruits 2013: The Swale Borough Local Plan 2017

- 5.02 Policy ST1 – Delivering sustainable development  
 Policy CP1 – Building a strong, competitive economy  
 Policy CP 4 – Requiring good design  
 Policy DM 6 – Managing transport demand and impact  
 Policy DM 7 – Vehicle parking  
 Policy DM 14 – General development criteria  
 Policy DM 19 – Sustainable design and construction  
 Policy DM 21 – Water, flooding and drainage  
 Policy DM24 -Conserving and enhancing valued landscapes  
 Policy DM28 -Biodiversity and geological conservation  
 Policy DM29 -Woodlands, trees and hedges

### 6.0 LOCAL REPRESENTATIONS

- 6.01 33 local addresses were consulted, but no letters from neighbours either in support of, or against, the proposal have been received.



## 7.0 CONSULTATIONS

7.01 Hernhill Parish Council raises objection to the application, noting:

*‘The council voted unanimously to object to the application. The Council consider that this application is evidence of our continued concern over the intensification of the site again. The Council still also have concerns over drainage and parking at the Site and the potential impact to any parking overspill would have on surrounding roads.’*

7.02 KCC Highways and Transportation initially raised some questions, but following the submission of additional information, they have removed their holding objection, provided the following requirements are secured by condition or planning obligation:

- Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
- Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.
- Provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to the use of the site commencing.
- Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.
- Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.
- Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.

7.03 Highways England (HE) have raised no objection. [As explained above, the A299 is part of the local road network, rather than being a strategic road maintained by HE; the nearest parts of the strategic network are the M2 motorway and the A2 east of Brenley Corner.]

7.04 The Environment Agency raises no objection.

7.05 The Environmental Protection Team Leader raises no objection, subject to a number of conditions below (see **conditions 4-9**)

7.06 Natural England has raised no objection, commenting that the proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

7.07 Southern Water raises no objection and offered the following advice: *“It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.”*

7.08 Kent Police has raised no objection, subject to the following details being secured:

*“1. The level of permeability must ensure routes through the development are appropriate and well-designed to create safer accessible neighbourhoods with maximum natural surveillance opportunities and avoid them providing too many access and escape routes. This may require vehicle mitigation at key points, such as a kissing gate to prevent small vehicles such as e-bikes or motorcycles being able to access the area through the*

*pedestrian access points. Defined pedestrian routes are recommended to improve safety and avoid pedestrian and vehicle conflict.*

*2. We recommend boundaries be installed to protect the site against trespass. We require these boundaries to be 1.8m minimum and include secure gates to the service paths to the rear of plots 12 to 19 and 24 to 35.*

*3. The car park must be overlooked by active windows in order to monitor activity in the area. To help address car crime, security should be provided for Motorbikes, Mopeds, e-bikes and similar. SBD or sold secure ground or wall anchors can help provide this. If the site is ever to be unoccupied, installation of a lockable swing arm and height restriction barrier or gates to prevent/deter unauthorised vehicle access and anti-social vehicle misuse, fly tipping etc.*

*4. If cycle storage is proposed it must be well lit and secure. We recommend the use of SBD or sold secure ground/wall anchors.*

*5. 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. we recommend that a suitable lighting policy is installed to ensure that the units and staff have safe access to and from the units and to help deflect criminality. External lighting to conform to min standard of BS5489-1:2020.*

*6. CCTV to be installed, especially in areas with limited natural surveillance such as rear of the units, utility areas/ bin stores and on the access/ exit road. The CCTV must not infringe any lighting plan.*

*7. All external doorsets (a doorset is the door, fabrication, hinges, frame, installation and locks) including folding or sliding 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.*

*8. Windows on the ground floor to 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. Toughened glass alone is not suitable for security purposes. Any curtain walling and fixings should be tested and meet BS EN 1627:2011 and/or be certified to LPS 1175: Issue 7, SR1 or STS 202: Issue 3, BR1.*

*9. Any Shutters should be as close to the building line as possible and must avoid the creation of a recess. Shutters must be certificated to LPS 1175: Issue 7, SR2; STS 202: Issue 3, BR2; Sold Secure Gold or PAS 68:2013*

*10. Bin Stores to be secure, lit and, if in an area with limited natural surveillance we recommend CCTV cameras be installed. Please can plans be sent to us to review further.*

7.09 The Climate Change Officer commented that the Design and Access statement makes no mention of sustainability and there is no separate energy and or sustainability statement.

The Climate Change Officer also advised that she would expect the development to be built to a minimum BREEAM very good as required in the current Local Plan.

The Climate Change Officer would like to see the use of rainwater harvesting. She commented that there is a surface water management strategy but no mention of harvesting for flushing, irrigation etc. She would also expect the incorporation of renewable technologies such as solar PV.

These issues are discussed below, and Members will note **conditions 10 and 20**.

7.10 KCC Flood and Water Management raises no objection, subject to the inclusion of drainage **conditions 11 and 12** listed below.

- 7.11 Internal Drainage Board: No comments received.
- 7.12 KCC Ecology noted that landscaping plans have been provided, which feature ecologically beneficial features like native tree planting and a pond. Whilst the ecologist is broadly supportive of this plan, he is his view that it is still likely that this development is entailing a biodiversity net-loss.

The Ecologist also advises that the wildflower meadow shown on the landscape plans is unlikely to establish in the thin shaded areas it is proposed for. He also noted that no management prescriptions have been provided (“which is vital to ensure that a meadow environment can establish”). He concludes that if the Council decides that the putative loss in Biodiversity is acceptable, then the landscaping scheme of the site is secured via condition. He also recommended a further condition and an informative which can be found in the conditions and informative sections of this report.

## **8.00 Background Documents**

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

Application Form and Notices; Site Location Plan; Existing and Proposed Drawings, Elevations and Sections; Floor Plans; Design and Access Statement; Travel Plan; an Ecological and Reptile Survey; a Surface Water Management Plan and Flood Risk Assessment and a Planting Plan.

## **9.0 APPRAISAL**

### Principle of Development

- 9.01 The principle of this type of development has been established through the extant permission for thirty-four industrial units. I note the Parish Council’s concern that this proposal will lead to unacceptable intensification of the site. My view is that the shape and size of the site can adequately absorb one additional industrial unit without materially harming the development, the site or the surrounding area.
- 9.02 Moreover, the site is in a location well related to road infrastructure and to some local services and other employment / residential uses and the proposal is in accordance with Policy ST1 of Bearing Fruits 2031 – The Swale Borough Local Plan 2017.

### Highway Safety and Convenience

- 9.03 I recognise the comments made by Hernhill Parish Council, who are concerned that the proposal might result in parking overspill on the surrounding roads. However, the Council has a recently adopted parking standards SPD (Swale Borough Council Parking Standards SPD May 2020), which requires there to be:
- 1 car parking space per 50sqm for over 200sqm of B2 floor space; and
  - 1 car parking space per 100sqm of B8 (storage and distribution) floorspace.
- 9.04 Assuming the industrial units are comprised entirely of B2 units, then the requirement would equate to 66 car parking spaces. Similarly, if the scheme comprised entirely B8 (Storage and Distribution use), then the parking requirement would be 33 bays.

- 9.05 The development will provide 73 parking spaces which satisfies the requirement of the Parking Standards SPD. I also note that the KCC Highways and Transportation team have not objected to the proposal. Additionally, the parking provision will be secured via **condition 17**.
- 9.06 For the reasons above, I am of the opinion that this one additional industrial unit, over and above the extant consent, is unlikely to significantly increase the potential for overspill parking on the surrounding roads beyond the extant permission. Therefore, the proposal complies with policy DM14 of the Local Plan and Swale Borough Council Parking Standards SPD May 2020.
- 9.07 With regard to the effect of the proposal on residential amenity, I note that the nearest property to the site is situated approximately 120 metres away. Bearing in mind that the dual-carriageway Thanet Way is a similar distance away from these dwellings, I consider it unlikely that the additional industrial unit, if approved, would increase any instance of noise issues.
- 9.08 Members will also note that the Environmental Protection Team Leader raises no objection, subject to appropriate conditions being imposed (see **conditions 4-9**).

#### Visual Amenity

- 9.09 The National Planning Policy Framework (the Framework) identifies, as a core planning principle, that planning should always seek a high quality of design and a good standard of amenity for all existing and future occupants of land and buildings.
- 9.10 Policy DM14 is in line with this core planning principle and makes clear that development should provide good levels of amenity: it specifies that development should cause no significant harm to amenity and other sensitive uses or areas
- 9.11 The additional industrial unit will be centrally located in a block of 11 industrial units along the northern part of the site. Whilst its presence removes a strategic break in the industrial units (secured under the extant consent), the impact it will have on the character and appearance of the extant consent will be very modest. In fact, the only views of the unit will be from the A299, where vehicles typically pass by very quickly, and from the petrol filling station, a shop, a Travelodge and a café on the other side of the carriageway. Moreover, most of the unit will be screened by existing and new trees, and only part of the roof and part of the rear elevation and eastern flank wall will be visible.
- 9.12 The applicants have also taken great care to ensure that all the units are relatively modest in scale, with suitable cladding options.
- 9.13 I noted that with the extant permission, a conscious effort had been made to visually break blank elevations by the insertion of windows, including the east facing flank elevation of Unit 11. The extant consent also shows windows on the flank walls of units 29 and 35 (listed as units 28 and 34 on that application). Those windows have not been included on these plans, and I think the scheme would be visually more interesting if they are included. Therefore, I have written to the applicant's agent to request that revised elevation plans are submitted which show the inclusion of windows to flank wall elevations on industrial units Units 29 and 35, as these units are in the most prominent positions in the site, and a window will break up a blank expanse of side wall.
- 9.14 The insertion of a 35<sup>th</sup> unit has meant the northern block of industrial units (the block of 11) will be moved closer to the western boundary. However, the existing tree and hedging on

this part of the site is very mature and I do not believe that the block will be seen from the surrounding road, other than glimpses in the autumn and winter seasons.

- 9.15 In short, I am of the opinion that the proposal (subject to revised plans with the inclusion of flank windows in the aforementioned units) respects the character and appearance of the site and the surrounding area and accords with policy DM14 in accordance with Government policy in the NPPF.

### Ecology

- 9.16 With regard to 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.
- 9.17 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.
- 9.18 To this end, the Council would be keen to ensure that all opportunities to incorporate measures to enhance biodiversity are designed into the proposals (see **conditions 21 and 22**).
- 9.19 I note the Ecology officer's comments that because, at one time, the site was a greenfield site, the proposal of industrial units on site is technically results in a Biodiversity Net Gain deficit. However, planning permission has already been granted for 34 of the 35 proposed industrial units and I am of the view that one further industrial unit on part of the site (which has already been cleared) will not result in a further Biodiversity net loss over the original biodiversity position of the site. Moreover, this proposal, when combined with the neighbouring NMDA development, will collectively provide an additional 530 sqm of additional habitat, inclusive of two ponds along with 20 No bird boxes, 12 No bat boxes and 26 No hibernacula's.
- 9.20 Therefore, in light of these provisions and weighing this against the various benefits that would arise from the development (notably the job creation and the regeneration of a long-standing vacant site), this aspect of the proposal accords with Policy DM28 of the Local Plan and the NPPF.

### Sustainable Construction and Climate Change

- 9.21 The Council has declared a Biodiversity and Climate Change Emergency, and its commitment to sustainable development is reinforced in local plan policy DM19 (Sustainable design and construction). Sub-section 3 of this policy is relevant to this proposal as it requires any commercial development over 1000sqm to be designed to achieve a BREEAM 'Very Good' rating as a minimum.
- 9.22 The Climate Change Officer, in her comments, stated that she would expect the incorporation of renewable technologies such as solar PV and would like to see provision of rainwater harvesting for flushing, irrigation etc. These requirements can be secured by condition (see

**condition 20**, which requires the development to be constructed to a BREEAM rating of 'Very Good').

- 9.23 In respect of electric vehicle charging points, the Council's Parking SPD states that for non-residential uses with off street parking, 10% of the bays will have an active charging point, with the remainder to be provided as passive spaces. I have included **condition 10** to ensure that this is provided, and I am of the view that this deals acceptably with this matter.
- 9.24 Subject to the appropriate conditions, the proposal accords with the NPPF and policy DM19 of the Local Plan.

### Drainage

- 9.25 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".
- 9.26 Criterion 5 of policy DM22 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".
- 9.27 The applicants are proposing to install attenuation crates throughout the site, and they have confirmed in their Surface Water Management Strategy that the attenuation provided will be sufficient to limit surface water discharge from the site to 2 l/s under the 1 in 100 year + 20% allowance for climate change events.
- 9.28 Kent County Council Drainage have reviewed the submission document and they are, subject to conditions, satisfied that the method for dealing with surface water, namely via infiltration to ground, will not increase the risk of flooding. Therefore, the proposal accords with Paragraph 165 of the NPPF and Policy DM21 of the Local Plan, and Members will note **conditions 11 and 12**.

## **10.0 CONCLUSION**

- 10.01 Taking all of the above into consideration and subject to the proposed conditions, I do not believe the development causes any unacceptable impacts to visual or residential amenities, it represents biodiversity gain over the extant consent and provides an acceptable level of parking provision. Accordingly, I consider that the development would accord with the

requirements of the Local Plan and the NPPF and therefore recommend planning permission be granted.

#### **11.0 RECOMMENDATION – GRANT** Subject to the following conditions:

##### **CONDITIONS**

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

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

- (2) The development hereby permitted shall be carried out in accordance with the following approved drawings:  
1564-011; 1564 -050; 5224-LLB-XX-XX-DR-L-0004 Rev P02; SK01 Rev A; SK02 Rev A; T-2021-085-02 Rev D; T-2021-085-03 Rev D; 1564-003C ; 1564-004C; 1564-005C; 1564-006C; 1564-007; 1564-008; 1564-010;

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

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

Reason: In the interest of visual amenity.

- (4) Prior to the installation of any exterior lighting scheme to the site, the following details must be provided for approval by the Local Planning Authority:

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

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

- (5) No development shall take place until a Construction and Environmental 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. This shall include details relating to:
- The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
  - The loading and unloading and storage of plant and materials on site;

- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- The control and suppression of dust and noise including arrangements to monitor dust emissions from the development site during the construction phase;
- Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
- Measures to control mud deposition off-site from vehicles leaving the site.
- The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase)
- The use if any of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site; and
- The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking
- Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
- Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction
- Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.
- Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.
- Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.

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

- (6) If, during construction 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 recommence 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 is 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: In the interests of safety.

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

Monday to Friday 0730 – 1800 hours, Saturdays 0800 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (8) 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.

- (9) Details of any mechanical ventilation system that will be installed shall be submitted to and approved by the Local Planning Authority and upon approval shall be installed, maintained and operated in a manner which prevents the transmission of odours, fumes, noise and vibration to neighbouring premises.

Reason: In the interests of residential amenity

- (10) Prior to the use of the development hereby permitted commencing, 10% of the parking spaces shall be fitted with active EV charging points; with the remainder provided as passive charging spaces.

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

- (11) 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 Flood Risk Assessment and the Drainage Strategy prepared by RMB dated February 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 without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

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

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

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required

prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

- (12) 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 (July 2021).

- (13) The scheme of tree planting and landscaping shown on the submitted Planting Plan numbered 5224-LLB-XX-XX-DR-L-0004 Rev P02 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.

- (14) The trees shown on the plans hereby approved as "existing trees to be retained" shall be retained and maintained. Any trees removed, dying, being severely damaged or becoming seriously diseased within five years of the date of this permission shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

Reason: In the interests of visual amenity.

- (15) The units hereby permitted shall be used for the purpose of offices, research and development, light or general industrial uses; or storage and distribution, and for no other purpose, including any other purposes in Classes E1, B2 or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

- (16) Notwithstanding Section 55 of the Town and Country Planning Act 1990 (as amended) no additional floor space in the form of a mezzanine floor shall be provided within units 1-35 of the development hereby approved.

Reason: In order to reduce the potential for the intensification of use of the site and in the interests of residential amenity and highway safety in accordance.

- (17) The area shown on the submitted plan as loading, off-loading and parking space shall be used for or be available for such use at all times when the premises are in use and no development, whether permitted by the Town and Country Planning (General

Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on that area of land or in such a position as to preclude vehicular access to this reserved area; such land and access thereto shall be provided prior to the commencement of the use hereby permitted.

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

- (18) No external storage of parts, equipment, raw materials or products shall take place within the site.

Reason: In the interests of visual amenity.

- (19) No development shall take place until details in the form of cross-sectional drawings through the site showing existing and proposed site levels and finished floor levels have been submitted to and approved by the Local Planning Authority. The development shall then be completed strictly in accordance with those approved details.

Reason: In order to secure a record of existing site levels and to ensure a satisfactory form of development having regard to the sloping nature of the site,

- (20) The buildings hereby approved shall be constructed to BREEAM ‘Very Good’ Standard or an equivalent standard and prior to the use of the buildings the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

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

- (21) Prior to the use hereby approved commencing and notwithstanding the details provided, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and thereafter maintained.

Reason: To ensure that there is a net gain in biodiversity.

- (22) 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 that will adversely impact biodiversity. 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 biodiversity

### **Informatives**

- (1) The following advice is provided by Kent Police:
1. Wave kerbs can be installed to deflect potential of vehicles parking on them and potentially blocking access routes or causing nuisance.
  2. The pedestrian routes between units 4 and 5, 11-14 and 15-18 and 23-28 and 29-34 should all be gated at both ends to help maintain security.
  3. Vehicle parking for each unit inc. visitor spaces to be allocated.
  4. Lighting and CCTV: a plan for both is essential to meet security needs without causing light pollution. CCTV Monitors to be on live feed in the café, reception and rest areas.
  5. Access Control – Essential to all commercial units and the whole café block.

6. An option for security staff 24/7 was suggested by the agent but no details to date. If an ATM is to be installed, then we would comment further.
7. Doorsets (including rear doors), roller shutter doors, windows and glazing to meet SBD Commercial standards.
10. Alarms to be fitted to the commercial unit rear doors and a panic alarm should be installed at the reception.

If the points above are not addressed, they can affect the development and have a knock on effect for the future services and local policing.

- (2) 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.
- (3) It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.

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.

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 public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.

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.

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.

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.

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/highway-permits-and-licences/highways-permissionsand-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

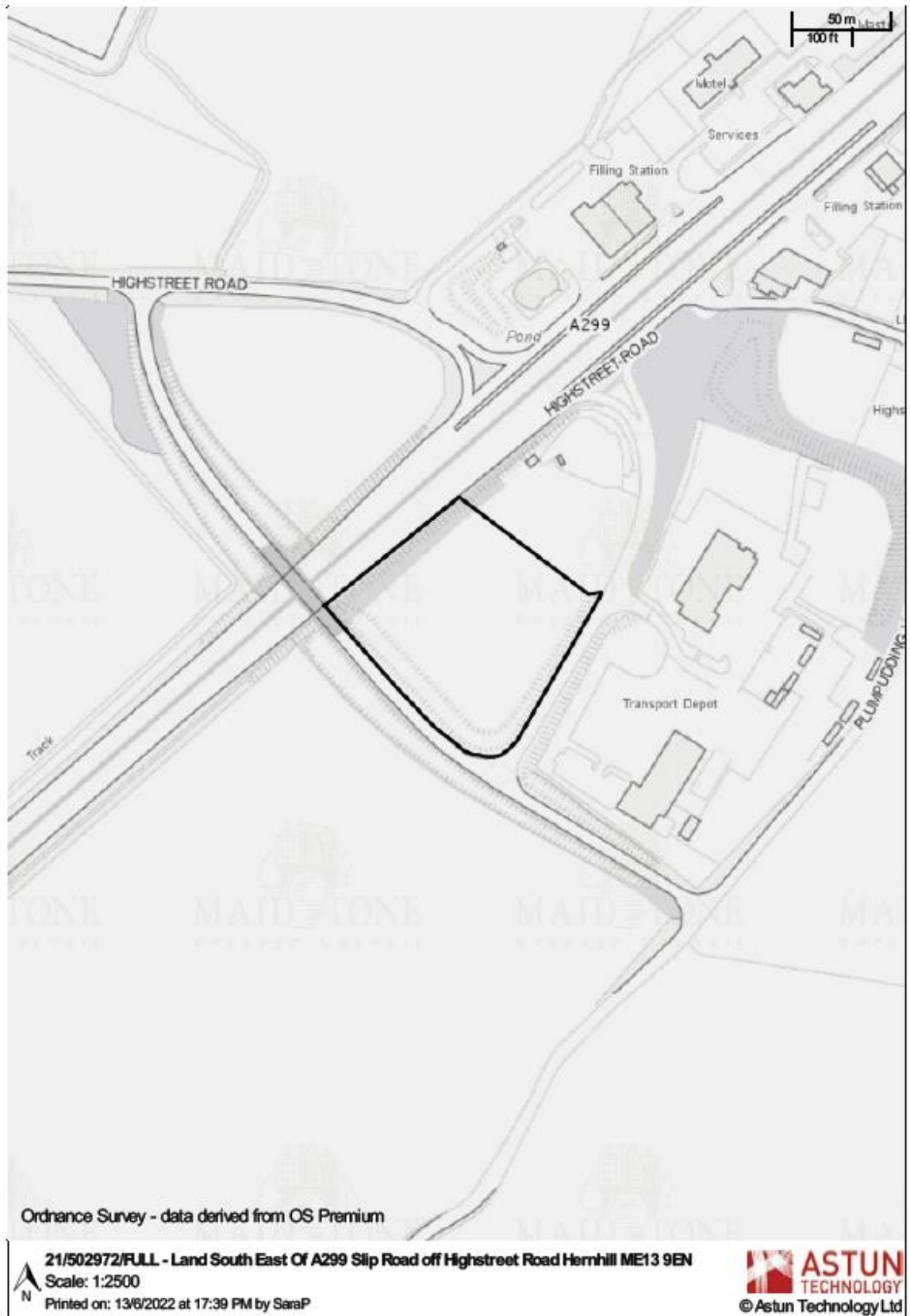
### **Council's Approach to this Application**

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;

Amendments and additional information were submitted by the applicant; and 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.



<b>2.2 REFERENCE NO - 21/505936/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Erection of 3no. dwellings to replace those demolished under application 19/501984/DEMREQ			
<b>ADDRESS</b> 19-21 Mount Field Queenborough Kent ME11 5DB			
<b>RECOMMENDATION</b> That delegated authority is given to the Head of Planning to grant Planning Permission, subject to completion of a further reconsultation process, the imposition of recommended conditions and completion of a SAMMS payment.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
The proposal entails development within the built-up area which is acceptable in principle. The development is on the site of three former dwellings that were originally granted under planning Ref: SW/06/0377, but subsequently demolished in 2019. The scale, design and appearance of the development as proposed is consistent with the former dwellings. No significant impacts to the character, appearance or layout of the vicinity of the site have been identified and although in Flood zone 3, the Environment Agency does not object to the development as proposed. The proposal does not result in any material harm to the outlook or amenity of neighbouring occupiers or any highways safety concerns over or beyond the relationships that existed with the previous dwellings. It accords with all the relevant policies of the development plan and government guidance in the revised NPPF. The agent has agreed to pay a SAMMS contribution subject to approval and therefore suitable mitigation measures have been agreed.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Objection from Queenborough Toann Council and Call in by Cllr Beart			
<b>WARD</b> Queenborough And Halfway	<b>PARISH/TOWN COUNCIL</b> Queenborough	<b>APPLICANT</b> Mr Q Searle <b>AGENT</b> Building Drawings	
<b>DECISION DUE DATE</b> 31/12/21		<b>PUBLICITY EXPIRY DATE</b> 03/06/22	
<b>PLANNING HISTORY</b>			
<b>Application Ref:</b>	<b>Description</b>	<b>Recommendation</b>	<b>Date</b>
SW/06/0377	The construction of fourteen number three bedroom houses at two and three storeys, a new access road, landscaping and car parking.	Approval, subject to conditions	22.11.2006
19/501984/DEMREQ	Prior Notification for the proposed demolition of 3 dwellings.	Prior Approval not required	07.06.2019

## **1. DESCRIPTION OF SITE**

- 1.1 The subject site is located within the built-up area of Queenborough. The site is situated on an area of land situated on the western side of Mount Field and infills an area between a railway embankment to the west and a relatively modern housing estate to the east.
- 1.2 The site is currently vacant, previously occupied by three dwellings of three storeys in height which formed a small terrace row. The three original dwellings formed part of a larger residential housing scheme for 14 dwellings under planning application Ref: SW/06/0377 dated 22.11.2006, and dwellings of similar design and scale are sited on each side of the site. The three dwellings (19-21) were subsequently demolished, being deemed unfit for purpose, and the site is currently empty with the exception of protective hoarding around the sites perimeter. There is an established landscape buffer of mature trees along the western boundary of the site adjacent to the railway line. The site of the proposed access is an existing turning head, used for informal parking by the occupants of dwellings in Mount Field.
- 1.3 To the west, on the opposite side of the railway line is Queenborough Conservation Area.
- 1.4 The site is also in Flood Zone 3 in an area at risk of flooding.

## **2. PROPOSAL**

- 2.1 This application seeks planning permission for the erection of 3no. three bedroom dwellings with amenity space and landscaping. The original dwellings were demolished having been found to be structurally unsafe.
- 2.2 The built form of development would be three storeys in height, the third storey accommodated partially within the roofspace served by dormer windows to the front and rear. A summary and comparison of the scale of development proposed is set out in further detail within Section 3, below. The main difference between the scheme and the dwellings previously present on the site is the introduction of a single storey rear infill extension to the rear of the properties (2.4m by 2.4m to eaves/ 3.4m to ridge height).
- 2.3 The proposal has been revised under the course of this application. The width of the development has been reduced by 1m on either side of the development block. To the west, the development has been set in to retain a sufficient landscape buffer to ensure protection of the visual amenity of the Queenborough Conservation area opposite as requested as part of the original consent (SW/06/0377). To the east, the development has been set in to ensure that the proposal aligns with the side flank of the previous consent, in the interests of visual amenity.
- 2.4 The proposed dwellings would be of a relatively traditional design incorporating a pitched roof with gable ends and would feature front and rear facing flat roof half dormer windows, and front Juliet balconies above the integral garages, mirroring that of the original consent and existing properties directly opposite at no's.22-26 (cons). A combination of brickwork and cladding is proposed to the fenestrations. Concrete interlocking tiles are proposed for the roof and white uPVC windows are proposed for the doors and windows.



- 2.5 The existing access and hardstanding would be retained. Each property would be served by two parking spaces (one within a garage).
- 2.6 The application site area has recently been amended to incorporate further space for car parking. This is within land already identified as being under the control of the applicant. Nonetheless, as the site area has technically been enlarged it is necessary to carry out a further consultation, which is currently underway. It is not envisaged that this would raise any new matters of concern (and it is noted that no neighbour objections have been received), however it is important that the correct consultation process is followed.

### 3. SUMMARY INFORMATION

	Demolished Properties	Proposed	Change (+/-)
Approximate Ridge Height (m)	10.8m	10.5m	
Approximate Eaves Height (m)	6.3m	6.3m	
Approximate Depth (m)			
Ground Floor	12.8m	13.7m	
First and second floors	9.8m	10m	
Approximate Width (m) single unit	4.4m	4.4m	
Approximate Width (m) block	13m	13m	
No. of Storeys	3	3	
No. of Bedrooms	3	3	
Net Floor Area	120m <sup>2</sup>	125m <sup>2</sup>	
Parking Spaces	2	2/3	

### 4. PLANNING CONSTRAINTS

- 4.1 Potential Archaeological Importance
- 4.2 Environment Agency Flood Zone 2/3

### 5. POLICY AND CONSIDERATIONS

#### 5.1 The National Planning Policy Framework (NPPF) 2021

Chapter 2: Sustainable Development; Chapter 6: Building a strong, competitive economy; Chapter 9: Promoting sustainable transport; Chapter 11: Making effective use of land; Chapter 12: Achieving well-designed places; Chapter 14 :Meeting the challenge of climate change, flooding and coastal change; Chapter 15: Conserving and enhancing the natural environment; Chapter 16: Conserving and enhancing the historic environment

- 5.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policy ST 1 Achieving sustainable development in Swale; Policy ST 3 The Swale settlement strategy; Policy ST 6 The Isle of Sheppey area strategy; Policy CP2 Promoting Sustainable Transport; Policy CP 3 Delivering a wide choice of high quality homes; Policy CP4 Requiring good design; Policy DM 6 Managing Transport Demand and Impact; Policy DM 7 Vehicle

Parking; Policy DM 14 General Development Criteria; Policy DM 19 Sustainable Design and Construction; Policy DM 21 Water, Flooding and Drainage; DM 28 Biodiversity and geological conservation

5.3 Swale Vehicle Parking Standards SPD 2020

## 6. LOCAL REPRESENTATIONS

6.1 No neighbouring representations were received.

## 7. CONSULTATIONS

7.1 Queenborough Town Council:

*“The Town Council raise concerns, knowing of the issues around this area of Queenborough regarding sewage and water flooding.*

*Prior to any consideration of the application a completely new flood report should be sought and accompany the submitted application for review by consultees', the one attached is outdated being 2005.*

*The impact of these dwellings on the Queenborough and Rushenden sewage system should be reviewed as homes in Queenborough continue to be flooded with raw sewage with the most recent event being January 2021.*

*The current pumping station is totally inadequate for Queenborough and Rushenden, with a long history of flooding of raw sewage where the station cannot cope, and Southern Water must improve the pumping station.*

*Queenborough Town Council ask Swale Borough Council for careful consideration to application for a new connection to the current system.”*

7.2 Cllr Cameron Beart: *“I note that the Town Council have already objected to the above application so this should be a committee referral anyway but I would like to call this application in to be determined by the planning committee as ward member also.”*

7.3 KCC Flood and Water Management: (Summarised) (19.12.2021) *“The application under the above reference number therefore falls outside the definition of major development and also falls outside of KCC's remit as statutory consultee”*

7.4 KCC Highways: (21.12.2021) The development proposal does not meet the criteria to warrant involvement from the Highway Authority

7.5 Southern Water: (04.01.2022) (Summarised) *The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised. Relevant conditions and Informatives are advised.*

7.6 Environment Agency: (11.01.2022) Initially objected to the proposal based upon an insufficient Flood Risk Assessment. A revised and updated FRA was submitted by KRS Environmental dated April 2022 whereby the EA raised no objection to the proposal (17.05.2022)

- 7.7 KCC Ecological Advice: (14.01.2022) We advise that the proposed development has limited potential to result in ecological impacts and as such we are satisfied that there is no requirement for an ecological survey to be carried out. Ecological Enhancement condition recommended and Breeding Birds Informative.
- 7.8 Network Rail (01.02.2022) (Summarised) - *Due to the close proximity of the proposed dwellings to Network Rail's land and the operational railway, Network Rail requests the applicant / developer engages Network Rail's Asset Protection and Optimisation (ASPRO) team via [AssetProtectionLondonSouthEast@networkrail.co.uk](mailto:AssetProtectionLondonSouthEast@networkrail.co.uk) prior to works commencing. This will allow our ASPRO team to review the details of the proposal to ensure that the works can be completed without any risk to the operational railway.*
- 7.9 Environmental Health: (27.04.2022) No objection, subject to conditions – Hours of construction & EV charging
- 7.10 Natural England: No comments received

## **8. BACKGROUND PAPERS AND PLANS**

- 8.1 Existing – Site Plan
- 8.2 Proposed – 21061QS-PP-(03)01-Proposed Plans-Ground and First Floor;  
21061QS-PP-(03)02-Proposed Plans-Second Floor and Roof;  
21061QS-PP-(04)01-Proposed Elevations-All; 21061QS-PP-(13)01-Site Plans-Location Plan; 21061QS-PP-(13)02-Site Plans-Existing Block Plan;  
21061QS-PP-(13)03-Site Plans-Proposed Block Plan (Revised drawings)

## **9. APPRAISAL**

### Principle of Development

- 9.1 The site is an existing brownfield site, the principle of development for three houses having been previously established under planning application Ref: SW/06/0377, and by the construction and presence of three dwellings on the site until they were demolished in 2019. The application site lies within the built up area of Queenborough, within a residential and sustainable location reasonably accessible by public transport. The principle of development within these locations is generally regarded as acceptable and in accordance with accords with Policy ST3 of Bearing Fruits 2031 – The Swale Borough Local Plan 2017.
- 9.2 In addition, Policy CP3 also aims to steer new development to the built-up area boundaries. As a result, the site location is considered sustainable, situated within the defines of an urban area with a good range of services which can be reached by sustainable travel modes to the benefit of future residents and in accordance with sustainable development set out within the NPPF 2021.
- 9.3 Overall, I consider the principle of development consistent with policies ST1, ST3, CP3 of the Local Plan (2017) as adopted, subject to considerations set out in further detail below.

### Visual Impact

- 9.4 The Government attaches great importance to the design of the built environment as stated in paragraph 130 of the NPPF. In addition, Policy CP4 of the Swale Local Plan 2017 promotes and encourages high-quality design which should be appropriate and reflect the character of the area.
- 9.5 In terms of scale and bulk, the proposal has been amended through the course of this application to reduce the width of the development proposed in line with the dwellings previously on the site and as per the approved scheme (Ref: SW/06/0377). A single storey infill extension has been introduced however I am satisfied that this is a relatively modest extension (2.4m deep by 2.4m to eaves/ 3.4m to ridge height) which does not adversely impact upon the scale of development previously approved. Moreover, there has been only a minimal increase (5m<sup>2</sup>) in the proposed floor area.
- 9.6 Turing to design and appearance, the appearance is reflective of the previously approved scheme and identical to the residential block directly opposite at no's 22 to 26 Mount Field. I note the proximity to Queenborough Conservation Area, however this is located on the opposite side of the Railway Line, and I do not envisage the scheme would cause harm to the setting the Conservation Area, taking into account the former similar development on the site and surrounding built form. Revised plans have been submitted to reduce the width of the development along the western boundary which will ensure the retention of the existing and well established landscaped buffer between the flanks of the proposed houses and the boundary of the site with the railway line and I am satisfied that this will provide appropriate and sufficient mitigation to the setting of the conservation area.

### Residential Amenity

- 9.7 The proposed dwellings would be located a minimum of 17 metres from the closest existing dwelling at No.14 Barler Place. This distance is measured from the (east) flank wall of the proposed dwellings to the rear wall of No.14 and is the same as the previous dwellings on the site which was considered acceptable under the application Ref: SW/06/0377. No windows are proposed in the side flank of the properties and the proposed dwellings would be a sufficient distance to avoid any unacceptable overshadowing, and I do not envisage the scheme giving rise to significant noise and disturbance.
- 9.8 In respect of the relationship with no's 22-26 Mount Field to the north and no.17 & 18 to the south, the distances at first and second floor level would be approx. 19 metres. Whilst less than the 21m standard normally applied, I note this distance would be the same as the dwellings that were previously on the site and considered acceptable as per the previous approval in 2006. I consider this to be acceptable given this historic relationship between dwellings.
- 9.9 Due to the nature of the development it is also necessary to consider the amenities of future occupiers. The internal spaces would meet national standards and rear gardens would be modest but acceptable and commensurate with the gardens associated with the demolished properties.

### Highways, Access, Parking

- 9.10 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with Swale Borough Parking Standards 2020
- 9.11 In terms of access and highway safety, no changes are proposed to the existing site entrance or hardstanding to the front forecourt. KCC Highways have been consulted and no concerns have been raised.
- 9.12 Each dwelling would be provided with 2 parking spaces, one of which would be in the integral garage. This would be in line with the arrangements for the dwellings previously constructed on site and in accordance with the original consent (SW/06/0377). However, the integral garage space does not comply with the dimensions specified in the more recent Parking SPD adopted by the Council. Under normal circumstances this would not be acceptable. However as the units are effectively replacement dwellings for the dwellings that until recently were on the plot, and the parking arrangements would be no worse than provided for these dwellings, I consider this to be acceptable in this particular instance. I note that the integral garage measures 2.6 by 5.2m and as such consider it would still be possible to utilise this space for parking, albeit it is not in accordance with the new standards.
- 9.13 For this reason, I am satisfied that there is sufficient parking for future occupiers and that parking would not lead to displacement of parking to the highway, to the detriment of highway safety.

### Flood Risk

- 9.14 The property is located within designated Flood Zone 3. Following an initial objection from the Environmental Agency on the grounds that the original FRA was out of date (2005) a revised Flood Risk Assessment has been provided under the course of this application. I have consulted with the Environment Agency on the revised FRA who have raised no objections to the proposal, despite the location within flood zone 3. I have no reason to dispute this response and the proposal is acceptable in this regard.

### Landscaping

- 9.15 Policy DM14 requires the provision of an integrated landscape scheme that would achieve a high standard of landscaping within the development. No landscaping has been provided however I am satisfied that this can be implemented via a condition, attached.

### Ecology/SAMMS

- 9.16 Since this application would result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. An HRA/AA is appended below. 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 applicant has confirmed that he is willing to make this payment in the event of an approval.

### Other Matters

9.17 I note the comments from the Town Council regarding the Queenborough and Rushenden sewage system and raise concerns that the pumping station is inadequate for this area. I have consulted with Southern Water who are responsible for sewerage disposal and no objections on capacity grounds have been raised, although conditions/informatives are sought to protect existing sewers and apparatus.

## 10. CONCLUSION

10.1 The proposal entails development within the built-up area which is acceptable in principle. The application is to replace three dwellings of almost identical form that were recently demolished, but were subject to previous approval at this site, under planning Ref: SW/06/0377, and the scale, design and appearance are found to be consistent with this previously approved development. No significant impacts to the character, appearance or layout of the vicinity of the site have been identified and although in Flood zone 3, the Environment Agency does not object to the development as proposed. The proposal does not result in any material harm to the outlook or amenity of neighbouring occupiers or any highways safety concerns over or beyond the relationships between the previous dwellings that stood on site. It accords with all the relevant policies of the development plan and government guidance in the revised NPPF. Moreover, the agent has agreed to pay a SAMMS contribution subject to approval and therefore suitable mitigation measures have been agreed in principle.

## 11. RECOMMENDATION

That delegated authority is given to Grant planning permission, subject to completion of the new consultation process (as described in para. 2.6) securing a SAMMS payment and the following conditions:

### CONDITIONS to include

- 1) The development which this permission relates shall be begun not later than the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town & Country Planning Act 1990

- 2) The development hereby approved shall be carried out in accordance with drawing title number(s): 21061QS-PP-(03)01-Proposed Plans-Ground and First Floor; 21061QS-PP-(03)02-Proposed Plans-Second Floor and Roof; 21061QS-PP-(04)01-Proposed Elevations-All; 21061QS-PP-(13)01 Rev A-Site Plans-Location Plan; 21061QS-PP-(13)02-Site Plans-Existing Block Plan; 21061QS-PP-(13)03 Rev A-Site Plans-Proposed Block Plan

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

- 3) All external materials to be used in the development shall match those specified on the application form.

Reason: To ensure that the materials harmonise with the surroundings, in accordance

- 4) No demolition/construction activities shall take place, other than between 0800 to

1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interest of residential amenity.

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

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

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

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

- 7) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with tree 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 interest of visual amenities of the area and encouraging wildlife and biodiversity.

- 8) The dwelling(s) 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

- 9) No development beyond construction of foundations shall take place until a scheme for the adequate provision of active electric vehicle charging points has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the development hereby approved.

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

- 10) The development shall be carried out using the flood resilience measures specified in the revised Flood Risk Assessment submitted with the application.
- Reason: To minimise risks from flooding.
- 11) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and no dwelling shall be occupied unless the notice for that dwelling of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).
- Reason: In the interests of water conservation and sustainability.
- 12) Upon completion, no further rear extensions to the dwellings, whether permitted by Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.
- Reason: In the interests of neighbouring amenities, flood risk and retention of sufficient amenity provision
- 13) 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.
- Reason: To minimise risk from flooding
- 14) Prior to the completion of the development hereby approved, details of how the development will enhance biodiversity will be 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 generous native species planting where possible. The approved details will be implemented and thereafter retained.
- Reason: To minimise impacts on and provide net gains for biodiversity in accordance with the requirements of the NPPF.
- 15) The area shown on the submitted plans as car parking space (including the integral garages) shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.
- Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.



## INFORMATIVES

### Southern Water

You are referred to the response received to the Council from Southern Water on 4<sup>th</sup> January 2022. As per the contents of the advisory note, you are advised to liaise directly with Southern Water regarding the location of the public sewer prior to the implementation of development. This planning permission does not remove or override any requirement for approval from Southern Water in respect of development over or near a public sewer.

### KCC Ecological Service

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. These habitats 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.

### Network Rail

You are referred to the response received to the Council from Network Rail on 1<sup>st</sup> February 2022. As per the contents of the advisory note, due to the close proximity of the proposed dwellings to Network Rail's land and the operational railway, you are advised to liaise with National Rail directly and follow the Asset Protection informatives which are issued to all proposals within close proximity to the railway (compliance with the informatives does not remove the need to engage with Network Rail ASPRO team).

### Highways

**It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.**

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.

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 public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.

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.

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.

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.

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/highway-permits-and-licences/highways-permissions-and-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

### **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 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 (which has been 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.

### **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.



<b>2.3 REFERENCE NO - 21/506474/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Erection of 2no. four bedroom semi-detached dwellings and 1no. detached garage, with associated fencing, gates, access and parking.		
<b>ADDRESS</b> Burntwick The Street Upchurch Sittingbourne Kent ME9 7EU		
<b>RECOMMENDATION</b> Grant		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The site lies outside of the built-up area boundary of the village, however the site is located close to the centre of the village and is surrounded by built form on all sides so the proposal is not considered to negatively impact the character and appearance of the countryside around the village. The proposed new dwellings are also considered to be appropriately designed and are not considered to result in undue harm to neighbouring amenity or to the designated heritage assets in the vicinity. Taking into account the current lack of a 5-year housing supply, the potential benefits of the proposal are considered to outweigh the harm to the countryside.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Upchurch Parish Council have objected to the scheme due to the concerns of residents. Councillors Horton and Palmer have also requested that the application should be called in to the Planning Committee due to local concerns raised relating to the overdevelopment of the site, the over-bearing impact on neighbouring properties and the detrimental impact on the village setting.		
<b>WARD</b>	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b>
Hartlip, Newington And Upchurch	Upchurch	Mr Steve Smith
		<b>AGENT</b>
		Mark Carter Associates
<b>DECISION DUE DATE</b>		<b>PUBLICITY EXPIRY DATE</b>
14/02/22		21/04/22

**RELEVANT PLANNING HISTORY**

SW/87/0760 – Erection of house - Approved pre 1990      Decision Date: 29.07.1987

SW/86/1292 – Outline application for one four-bedroom house - Approved pre 1990  
Decision Date: 13.01.1987

**1. DESCRIPTION OF SITE**

- 1.1 The application site is a plot of garden land located to the side of a property known as 'Burntwick'. The site measures approximately 0.13 hectares in size and features a manmade pond. The site is located close to the centre of Upchurch village and it borders the rear gardens to a number of other residential properties along 'The Street' and 'The Poles'. The village hall is located to the north of the proposed development site.
- 1.2 The site lies adjacent to the Upchurch Conservation Area boundary and it is situated adjacent to but outside of the built-up area boundary of the village. St Mary's church further to the south is a Grade I listed building.

## **2. PROPOSAL**

- 2.1 The development proposal relates to the erection of two semi-detached houses , together with associated hard and soft landscaping works. The initial proposal was for two detached houses on the site but this has since been revised to reduce the potential impact of the proposed scheme. The proposed new dwellings will each have 4 bedrooms and will benefit from parking spaces and a private access road leading to a shared access road serving Burntwick, the public house and the village hall. A single garage is also to be erected on the site and will be allocated to one of the proposed dwellings.

## **3. PLANNING CONSTRAINTS**

- 3.1 The site constraints are as follows:

Adjacent to Upchurch Conservation Area boundary  
Within the setting of a listed church  
SSSI Impact Risk Zone  
Swale Explosives Sites  
Area of Archaeological Potential  
Outside of the built-up area boundary

## **4. POLICY AND CONSIDERATIONS**

- 4.1 National Planning Policy Framework 2021  
4.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017

ST1 Delivering sustainable development in Swale  
ST3 The Swale Settlement Strategy  
ST5 The Sittingbourne Area Strategy  
CP2 Promoting sustainable transport  
CP3 Delivering a wide choice of high-quality homes  
CP4 Requiring good design  
DM7 Vehicle parking  
DM14 General development criteria  
DM19 Sustainable design and construction  
DM28 Biodiversity and geological conservation  
DM32 Development involving Listed Buildings  
DM33 Development affecting a Conservation Area

Swale Borough Council Parking Standards 2020

Departments for Communities and Local Government: Technical Housing Standards – Nationally described space standards

Upchurch Conservation Area Appraisal

## 5. LOCAL REPRESENTATIONS

- 5.1 30 representations (from 14 households) have been received during the application process, 12 of which were received in response to the amendments to the drawings. One comment has been received in support of the proposal and three comments have been received neither objecting to nor supporting the proposal.
- 5.2 26 of those responses commenting on the application have objected to the proposal on the following grounds:
- Loss of privacy
  - Loss of outlook
  - Out of character with the area
  - Impact on the Conservation Area
  - Highway safety issues associated with narrow access
  - Potential for damage to the access road caused by heavy vehicles
  - Loss of light
  - Impact on access to the village hall, particularly during the construction phase
  - Impact on water supply/sewage pipe serving the village hall
  - Rights of way issues
  - Noise/dust issues during construction phase
  - Parking stress
  - Ecological impact
  - Fire safety concerns

## 6. CONSULTATIONS

- 6.1 **Upchurch Parish Council** – Object to the application proposal due to the concerns raised by the residents. They do not consider that the amended design has mitigated the concerns.
- 6.2 **Ward Councillors** – Comments received from Cllrs Horton and Palmer objecting to the proposal on the grounds that the development is considered to constitute an overdevelopment of the site. They also object to the over-bearing impact of the proposal on neighbouring properties and to the detrimental impact of the development on the village setting.
- 6.3 **Kent County Council Flood and Water Management Team** – No comment, falls outside of their consultation criteria.
- 6.4 **Natural England** – No objection, subject to the appropriate financial contribution being secured
- 6.5 **Kent County Council Minerals and Waste Planning Policy Team** – No objection
- 6.6 **Health and Safety Executive** - No comment to make on the planning application provided that the development is not classed as a 'vulnerable building'
- 6.7 **Kent County Council Archaeology Team** – No objection, subject to condition
- 6.8 **Kent County Council Highways Team** – Falls outside their remit for comment. However, verbal confirmation received that there is no objection. They have

recommended conditions relating to a construction traffic management plan for the site and a condition relating to visibility splays at the entrance to the site.

- 6.9 **Kent Fire and Rescue Service** –Comments on initial scheme indicate that Fire Service access and facility provisions need to be provided as they are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service. No comments have been received on the revised plans.

## 7. BACKGROUND PAPERS AND PLANS

- 7.1 Please refer to the existing and proposed plans provided.

## 8. APPRAISAL

### Principle of Development

- 8.1 Policy ST3 of the Swale Local Plan 2017 supports development within the urban confines of towns and local centres in the borough. It states that development will not be permitted on 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 landscape setting.
- 8.2 The property is located immediately adjacent to the built-up area boundary of Upchurch village but it lies outside of the defined boundary and in an area classed as countryside. In this location, the principle of erecting new dwellings is not generally supported in policy terms.
- 8.3 However, the Council is currently unable to demonstrate a 5 year housing supply and at the current time it is only able to demonstrate a 4.6 year supply of housing. As a consequence, as per Paragraph 11.d of the National Planning Policy Framework, the tilted balance is engaged.
- 8.4 Paragraph 11.d of the NPPF states that in cases where a five year supply of housing cannot be demonstrated, relevant policies relating to the supply of housing should not be considered up to date and there should be a presumption in favour of sustainable development, unless “(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed” or “(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.
- 8.5 In this case, the proposed development site lies near the centre of the village and within the curtilage of an existing residential dwelling. The site is also surrounded by built form on all sides so it is considered that any proposed development in this location is unlikely to significantly harm the character and appearance of the countryside surrounding the village. The proposal will also boost the local housing supply in the area and is likely to benefit the rural economy during the construction phase by providing employment opportunities, albeit that these benefits would be minor.



- 8.6 In light of this, the benefits of the proposal are considered to outweigh the potential harm to the countryside and the principle of carrying out development on the site may be considered acceptable, subject to the proposal meeting the policy requirements set out below.

Impact on Heritage/Visual Amenity

- 8.7 Policy DM32 of the Swale Local Plan 2017 states that proposals that affect a designated heritage asset, or its setting, will be permitted only where the building's special architectural or historic interest, and its setting and any features of special architectural or historic interest which it possesses, are preserved.
- 8.8 Policy DM33 of the Swale Local Plan 2017 states that new development within, or adjacent to, a Conservation Area is expected to be both of an appropriate use, of a very high standard of design, and to respond positively to the grain of the historic area by preserving or enhancing the character or appearance of the place.
- 8.9 Policy CP4 of the Swale Local Plan 2017 requires development proposals to be of high-quality design and to be in keeping with the character of the area. It states that particular regard should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any future proposals.
- 8.10 As stated above, two 4-bedroom semi-detached dwellings are proposed on the site. The proposed new dwellings will have a barn hip roof design and projecting gable features to the front and rear. Each dwelling will have a canopy porch with a catslide roof feature. The proposed new dwellings are to be constructed using a mix of modern and traditional materials which include brick and render. The fenestration on the two properties will be modern in style. The two dwellings will benefit from three parking spaces each and the second dwelling on the north-eastern side of the plot will also benefit from a detached single garage with pitched roof.
- 8.11 With regards to the design of the new properties and the potential impact of the proposal upon the character and appearance of the streetscene, the two proposed dwellings will be set back from The Street on a backland plot and will not be widely visible from public vantage points. The proposed new dwellings will measure approximately 7.7 metres in height in line with the neighbouring property at Burntwick. Accordingly the two dwellings should not appear excessively tall in the site context. The properties will be set back from the nearest neighbouring boundaries by at least 7 metres and they are considered to be proportionate to the size of the plot. The design of the new proposed dwellings incorporates the use of some traditional architectural features and construction materials which are considered to respect the setting. The proposed single garage measures approximately 5.5 metres in height and is considered to be of an appropriate scale. In my opinion, the properties are well designed, discreetly positioned on a backland plot and do not appear out of place in the context of the wider area.
- 8.12 With regards to the designated heritage assets in the vicinity of the proposed development site, the site borders Upchurch Conservation Area on three sides and it lies approximately 65 metres from St Mary's, a grade I listed church dating from approximately 1300. The significance of the listed church lies in its age and its distinctive architectural features. It is also considered to make a significant contribution to

Upchurch Conservation Area and is revered as a landmark building and important community facility in the centre of the village.

- 8.13 With regards to the potential impact of the development upon the significance of the designated heritage assets, the dwellings are to be sited in a discreet location within the garden plot which currently serves Burntwick. The properties will be sited behind the properties along The Street and The Poles and they will not detrimentally impact any important views leading into the Conservation Area. Whilst the proposed new dwellings are relatively modern in appearance, their design incorporates the use of traditional architectural features and the two dwellings are to be constructed using appropriate materials so their design and appearance should not negatively impact the scenic qualities of the Conservation Area and the appearance of the historic core of the village will remain unchanged. The proposed new dwellings are also not considered to negatively impact the setting of the listed church given the separation distance and intervening buildings. I have consulted with the Conservation Officer, who raises no objection to the proposed development.
- 8.14 In light of the above, the proposal is considered to be policy compliant from a heritage and visual amenity perspective, and would protect the setting of the identified heritage assets.

#### Residential Amenity

- 8.15 Policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight, in an unreasonable loss of privacy, in an unreasonable loss of outlook or in excessive noise or odour pollution.

#### *21 The Street*

- 8.16 The two proposed new dwellings are to be located approximately 7 metres from the boundary shared with 21 The Street and approximately 9 metres from the flank wall of the property. The proposed single garage is to be located approximately 2 metres from the shared boundary with the neighbouring property and approximately 5 metres from the front elevation of the property. The proposed new dwellings and single garage do not directly align with 21 The Street, which reduces the potential for impacts. In their proposed location, the new dwellings and proposed outbuilding are considered to be a sufficient distance from No 21 to avoid any unacceptable impacts on daylight and sunlight.
- 8.17 With regards to the potential impact of the proposal upon neighbouring privacy, the glazing along the front and side elevations of the new proposed dwelling on the north eastern side of the plot has the potential to afford some views towards the neighbouring dwelling and garden. However, any direct or oblique views afforded from the windows at ground floor level would be largely obscured by the high-level fencing along the boundary. With regards to the proposed glazing at first floor level, as the new dwelling is not directly aligned with 21 The Street, the windows along the front elevation of the new dwelling at first floor level will only afford limited oblique views towards the garden

serving the neighbouring property and are not considered to harmfully impact neighbouring privacy. With regards to the proposed window at first floor level along the side elevation of the new proposed property, this will serve a bathroom and it is considered that any potential for overlooking can be effectively mitigated via an obscure glazing condition.

- 8.18 With regards to the potential for the proposal to impact neighbouring outlook, two windows are located at ground floor level, one window is located at first floor level, and one window is located at second floor level along the flank elevation of 21 The Street and the windows face directly into the proposed development site. However, as the new proposed dwellings are not directly aligned, the outlook from the windows will be on to the corner of the second dwelling and into proposed parking area. It is understood that the two windows at ground floor level serve the lounge of the property and they do not provide the principal source of outlook for the room owing to the fact that there are two other windows along the front and rear elevations of the property. The window at first floor level is understood to serve a bedroom. However, it is not considered to be the principal source of outlook for the room as the room benefits from a second window along the front elevation. With regards to the window at second floor level, the window is believed to serve a bedroom and it is believed to be the principal window to the room. However, as the window is set at a high level and it is set back from the neighbouring boundary by approximately 6 metres, given the distance of approximately 13 metres between the flank wall of the new proposed dwelling and the window, it is considered that, whilst the new proposed development will be visible and the views from the window may be affected, the outlook from the window will not be unreasonably obscured.

#### *11-19 The Street*

- 8.19 The rear elevations of properties at 11-19 The Street are located approximately 30 metres from the proposed new dwellings and the rear and flank elevations of The Crown Public House are located approximately 42 metres away. Given the distance between the proposed new houses and the existing properties, it is not considered that the proposed development will result in an unreasonable degree of overshadowing. In addition, it is not considered to harmfully impact neighbouring privacy or outlook, taking into account that the normal 21 metre separate distance used by the Council is met and exceeded.

- 8.20 With regards to concerns raised in the representations as to the potential impact of the development upon The Crown during the construction phase, it is considered that any potential congestion can be sufficiently mitigated via a construction traffic management plan. A condition will be added in this regard.

#### *7-21 The Poles*

- 8.21 The new proposed dwellings will be located approximately 6.5 metres from the rear boundaries shared with 7-21 The Poles when measured at their closest point and the rear elevations of 7-21 The Poles will be located at least 23 metres away from the new proposed properties when measured at the closest point. At this distance, it is considered that the new proposed development is unlikely to unreasonably impact the neighbouring dwellings in terms of daylight, sunlight, privacy or outlook issues. Whilst it

is acknowledged that there is a difference in land levels along The Poles and the proposed new dwellings may be visible from the rear gardens of the properties, this is not considered to be at an extent that would cause undue harm to neighbouring amenity.

#### *Burntwick*

- 8.22 The flank elevation of the new proposed property on the south-western side of the plot will be located approximately 4 metres from the flank elevation of Burntwick. The new dwellings do not project significantly beyond the front or rear elevations of this property, and as such would not cause unacceptable impacts in relation to daylight, sunlight or outlook.
- 8.23 With regards to the potential impact of the proposal upon neighbouring privacy, several new full-length windows are proposed at ground floor level and one new window is proposed at first floor level along the flank elevation of the new dwelling on the south-western side of the plot and the windows will face directly on the boundary shared with Burntwick, although all of these are either secondary or non-habitable windows. . Any views from the new glazing at ground floor level will be obscured by fencing along the boundary and the first floor window to a bathroom can be mitigated via an obscure glazing condition. With regards to the proposed glazing along the rear elevation of the new proposed dwelling, the proposed windows will face directly into the garden serving the new proposed property. Whilst the windows will afford some oblique views to the neighbouring plot, the views afforded are considered to be typical of usual relationships between houses and would not unreasonably impact neighbouring privacy.
- 8.24 With regards to the potential impact of the proposed development upon neighbouring outlook, there are three windows along the flank elevation of Burntwick which are likely to be affected by the development. However, one of the windows on the ground floor does not serve a habitable room and the other window does not provide the sole source of outlook to the room as there is a second window to the room along the front elevation. With regards to the window at first floor level, the window is believed to serve a bedroom. Although the outlook from the window along the side elevation will be impacted, the room is also served by a low-level roof light which affords views to the rear garden. As a consequence, the outlook from the room will not be unreasonably obscured.

#### *Village Hall*

- 8.25 The village hall is to be located approximately 33 metres from the proposed new dwellings and it will not be overshadowed or unreasonably affected in amenity terms. Some concerns have been raised as to the potential impact of the construction phase of the development upon the water and waste facilities and the access to the church hall. However, the way in which traffic is to be managed will be controlled via a construction traffic management plan condition. Given the separation distances, activities in the village hall would be unlikely to impact upon future residents in an unacceptable way.

#### Parking/Highways

- 8.26 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with adopted vehicle parking standards.

- 8.27 The Council's adopted car parking SPD states that where 4 bedroom units in this location are proposed, generally they will require up to 3 parking spaces per dwelling. The plans provided indicate that each new dwelling will benefit from 3 parking spaces and that one of the dwellings will also have the use of a single garage. The policy requirements in respect of parking are therefore considered to have been met.
- 8.28 With regards to the proposed new access, the access road will be located adjacent to the entrance to Burntwick and the site will be gated. Whilst I note that some concerns have been raised as to the impact of the access upon existing users of the access road to the village hall and the public house, the creation of two dwellings in this location is likely to give rise to an average of 10 vehicle movements per day and vehicles are likely to be travelling at low speeds due to the width of the road. I have consulted with Kent County Council Highways team who have confirmed that the proposed access is appropriate and does not give rise to highway safety concerns. They have recommended that a condition relating to visibility splays at the entrance to the site and a condition relating to a construction traffic management plan should be added to any future consent to reduce the potential for congestion. These conditions will be added accordingly.

### Trees

The tree removal plan provided highlights the fact that some trees are to be removed from the site as part of the proposal. I have consulted with the Conservation Officer, who has advised that the removal of trees from the site will not unduly impact the character of the Conservation Area due to the small size and quality of the trees being removed. A condition will be added to any future consent to require the applicant or their successors to protect those trees being retained during the construction phase and to submit further details of hard and soft landscaping works including a planting schedule to ensure that the verdant quality of the site is protected.

### Biodiversity and Climate Change

- 8.29 Due to the effects of Climate Change, the Council currently seek an energy efficiency pre-commencement condition on the grant of future planning permissions to ensure 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). A condition is recommended on this basis.
- 8.30 Policy DM28 of the Swale Local Plan 2017 states that any new proposed development should conserve, enhance and extend biodiversity, provide for net gains in biodiversity where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 8.31 As an existing domestic garden, impacts on protected species are not envisaged. A condition will be added to any future consent to request that ecological enhancements should be added to the site in order to encourage biodiversity.
- 8.32 The site lies within 6km of the Medway Estuary and Marshes Special Protection Area (SPA), a European designated site which has been afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat

Regulations). In accordance with the adopted practice, a standard financial contribution will be collected from the applicant prior to determination to mitigate against the potential harm to the SPA in accordance with the current agreement in Natural England, subject to the approval of the proposed scheme. I have attached an Appropriate Assessment for this development.

#### Other Matters

- 8.33 Archaeological Potential – The site is located within an area of archaeological potential. I have consulted with the Kent County Council Archaeology team, who have recommended a condition relating to the recording of any finds during the construction phase of the development. A condition will be added accordingly.

### **9. CONCLUSION**

- 9.1 As the Council cannot currently demonstrate a 5-year housing supply, the tilted balance under paragraph 11 (d) of the NPPF applies. The proposal would represent residential development in the countryside, where such development is usually resisted. However, in this instance the effects of the development on rural character and amenity are very limited due to the extent of built form around the site. The scheme is acceptable in design, neighbouring amenity and heritage terms, it is considered that the development will make a small contribution to the provision of new housing in the village, and these benefits would outweigh the very limited harm arising from new residential development beyond the existing built confines. Accordingly it is recommended that the application should be approved, subject to payment of the SAMMS contribution.

### **10. RECOMMENDATION**

That planning permission is GRANTED subject to payment of the SAMMS contribution and the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2. No development shall take place other than in accordance with the following approved plans:

3319 – 009 Rev A, 3319 – 010, BW/TPP-00-04 Rev A, BW/TRP/00-03 Rev A, 3319 – 005, 3319-006

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

3. No development beyond the construction of foundations shall take place until samples of the external finishing and roofing materials for the new dwellings and garage have been submitted to and agreed in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: To conserve and enhance the character of the Conservation Area.

4. No development beyond the construction of foundations shall take place until large-scale (1:5 or 1:10) section and construction drawings of the window joinery, reveal depths, verge, eaves and half-dormer details 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 conserve and enhance the character of the Conservation Area.

5. No demolition or construction works shall take place on the site other than between the hours of 0730 – 1900 from Monday to Friday and 0730 – 1300 hours on Saturdays and no construction or demolition works shall take place at any time on Sundays or on Bank or Public Holidays.

Reason: In the interest of the amenities of occupiers of neighbouring properties

6. The parking spaces shown on the submitted plans shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude access to the parking spaces. The parking spaces shall be provided prior to the occupation of the residential units hereby approved.

Reason: To ensure adequate parking provision and prevent congestion on the highway.

7. 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.

8. 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.

9. No development shall be commenced until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority, and shall include the following:
  - (a) Routing of construction and delivery vehicles to / from the site

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

The approved details shall be adhered to throughout the construction process.

Reason: In the interest of highway safety

10. The site access as shown on the submitted plans, shall be completed prior to the use of the site commencing and maintained for such use thereafter.

Reason: In the interest of highway safety.

11. Prior to the first occupation of the dwellings, details of the visibility splays to be provided at the entrance to the site shall be submitted to the Local Planning Authority for their prior written approval. The visibility splays shall be implemented on site prior to first use of the access and maintained thereafter, with no obstructions over 0.6 metres above carriageway level within the splays.

Reason: In the interest of highway safety.

12. The first floor windows on the side elevations of the approved dwellings shall be obscure-glazed and non-openable up to a height of 1.7 metres above the internal finished floor level and once installed they shall be retained as such hereafter.

Reason: In the interests of preserving neighbouring privacy.

13. No development shall commence until details of the proposed means of foul sewerage and surface water disposal, including measures to prevent the discharge of surface water onto the highway, have been submitted to and approved in writing by, the Local Planning Authority. The drainage systems shall be implemented on site in accordance with the approved details prior to first occupation of the development.

Reason: In order to ensure that existing drainage systems are not overloaded and to prevent surface water runoff on to the highway.

14. One Electric Vehicle charging point per dwelling shall be provided at the site prior to the occupation of the development hereby permitted and they shall be retained permanently thereafter. All Electric Vehicle charging points shall 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-approved-chargepoint-model-list> )

Reason: To ensure the provision and retention of electric vehicle charging facilities in the interest of reducing greenhouse gas emissions.

15. No development beyond the construction of foundations shall take place until a scheme of biodiversity enhancement measures 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 species



planting. The approved details shall be completed prior to first occupation of the development and thereafter retained.

Reason: To minimise impacts on and provide net gains for biodiversity in accordance with the requirements of the NPPF.

16. 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. The programme of archaeological work should in the first instance comprise targeted trial trenches to evaluate the potential of the site.

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

17. Notwithstanding the submitted plans, no development beyond the construction of foundations shall take place until full details of both hard and soft landscape works and any replacement or new boundary treatments have been submitted to and approved in writing by the Local Planning Authority. These details shall include details of existing and replacement trees to mitigate the impact of those which have been removed from the site, shrubs and other features, planting schedules for new plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

18. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority. Upon completion of the approved hard and soft landscaping scheme as detailed on the approved drawings, if any trees or shrubs are removed, die, become severely damaged or become seriously diseased within five years of planting, they shall be replaced with trees/shrubs of a similar size and species unless otherwise agreed in writing with the Local Planning Authority.

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

19. The proposed new dwellings as illustrated on the approved plans shall not be subject to further development, whether permitted by Classes A, AA, B or E of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, without the prior permission in writing of the Local Planning Authority.

Reason: In the interest of maintaining the visual and neighbouring amenity of the area and the setting of the conservation area.

20. No development shall take place until details of existing and proposed levels (site levels and finished floor levels) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accord with the approved details.

Reason: In the interests of visual and neighbouring amenity.

21. The tree protection measures as outlined on plan ref: BW/TPP-00-04 Rev A shall be implemented on the site prior to the commencement of works and shall be retained for the duration of the construction phase. No works, storage or other uses or operations shall take place within the protected areas unless agreed otherwise in writing by the Local Planning Authority.

Reason: In the interest of visual amenity.

## **INFORMATIVES**

1. Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.

### **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.

### **Appropriate Assessment**

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

SPAs are protected sites classified for the prevalence of rare and vulnerable birds and for regularly occurring migratory species on the site. Article 4(4) of the Birds Directive (2009/147/EC) requires steps to be taken by the relevant authorities to avoid activities on the site which are likely to result in pollution or in the deterioration or disturbance of bird habitat. Accordingly an appropriate assessment is required to establish the likely impact of the development.

In the recent 'People Over Wind v Coillte Teoranta' (ref. C-323/17) ruling by the Court of Justice of the European Union, the Court 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.

It is acknowledged that the proposed development will increase footfall to the area, which results in potential harm to the SPA. However, the development is sufficiently small scale to ensure that the level of harm is limited. In addition, it is considered that it would be possible to mitigate against the potential harm through either on-site or off-site measures.

In this case, off-site mitigation measures are deemed to be more appropriate. When considering any residential development within 6km of the SPA, the Council seek to 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). Such strategic mitigation must be in place before the development is occupied. 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) are considered sufficient to mitigate against any adverse effect on the integrity of the SPA. A fee of £ £275.88 per residential unit will be secured from the applicant towards such mitigation prior to determination, subject to a resolution to approve the scheme.

I have consulted with Natural England, who have advised that the proposal is acceptable, subject to payment of the aforementioned financial contribution.



<b>2.4 REFERENCE NO - 22/501315/FULL</b>		
<b>APPLICATION PROPOSAL</b> Raising of roof height and insertion of dormer window and roof lights together with two storey front and rear extension as amended by drawing No. 01.22.09C.		
<b>ADDRESS</b> St Mawes The Street Borden Kent ME9 8JN		
<b>RECOMMENDATION</b> Grant subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection		
<b>WARD</b> Borden And Grove Park	<b>PARISH/TOWN COUNCIL</b> Borden	<b>APPLICANT</b> Mr Scott Hawkins <b>AGENT</b> Jane Elizabeth Architects
<b>DECISION DUE DATE</b> 26/05/22	<b>PUBLICITY EXPIRY DATE</b> 05/05/22	

### Planning History

There is no recorded planning history for St Mawes, but the bungalow has been extended at the rear with a large flat roofed box dormer.

### 1. DESCRIPTION OF SITE

- 1.1 St Mawes is a brick built detached bungalow with a single storey detached garage set behind the property. The bungalow is located within the built-up area boundary of Borden and within the village conservation area. The property is situated on the south side of The Street alongside a row of four bungalows that are set well back from the road.
- 1.2 The adjacent bungalow to the east known as Ridgeways has a single storey detached garage to the rear which sits on the common boundary and a generously sized rear garden that wraps around the garden boundary of St Mawes.
- 1.3 However, the adjacent property to the west, known as St Martins Cottage, is a traditionally designed two storey house of some age; one that makes an important contribution to the character of the conservation area as it is prominently sited much further forward and closer to the highway. The principal flank elevation of St Martins Cottage sits in front of the façade of St Mawes, but this property also has a long single storey building at the rear that sits on the common boundary with St Mawes.

### 2. PROPOSAL

- 2.1 This application seeks planning permission for increasing the height of the existing front bedroom wing to create a new entrance hall and stairway (with a fully glazed front gable), and to construct a rear extension with two floors to provide additional living space at ground floor, and a third bedroom within the roofspace, again with full height glazing to the new gable end.

- 2.2 The proposals also involve raising the main ridgeline of the bungalow by 0.7m and include a new pitched roof dormer window to the front, and four rooflights to the rear. The extension to the rear would have a ridgeline at the same height as the new main roof and would project 4m beyond the rear wall of the bungalow. This extension would have a pitched roof with two high level side facing rooflights serving the ensuite and master bedroom. The other two rooflights at the rear will be positioned at eye level overlooking the rear garden and will serve bedroom 2 and 3.
- 2.3 The external walls of the bungalow will be clad in black horizontal featheredged timber weatherboarding above a red brick plinth and have a brown tiled roof. The existing bungalow has UPVC windows and doors, although the front door is wooden. The proposal is to install grey slimline aluminium windows, an oak door, and aluminium bi-folding doors at the rear. The new gable ends will be oak framed.
- 2.4 The new resin driveway to the front (looks similar to pea shingle) will provide turning space and off-road parking for at least three cars. There will be a small, grassed area in front of the new gable end. The revised block plan shows a privet hedge will be planted behind the new 0.9m high brick boundary wall together with two Laurel trees.
- 2.5 The application is supported by a Design, Access and Heritage Statement which explains the proposal will provide an additional bedroom and larger kitchen for the occupants, and that the proposed materials will be used to improve the appearance of the property. They have included photographs of other properties within the village that have glazed gable ends and have used similar external materials - red brick, black weatherboarding, and a brown tiled roof.
- 2.6 The applicant sought pre-application advice prior to submitting the application and was advised that the proposal was likely to be acceptable, providing the walls are clad in timber weatherboarding rather than a composite, that the front dormer is designed with a two-pane window and the rooflight serving bedroom 2 is positioned at eye level. This application has addressed all these issues.

### **3. PLANNING CONSTRAINTS**

- 3.1 Conservation Area The Street, Borden

### **4. POLICY AND CONSIDERATIONS**

- 4.1 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies CP4 Requiring good design; CP8 Conserving and enhancing the historic environment; DM7 Vehicle parking; DM14 General development criteria; DM16 Alterations and extensions; DM33 Development affecting a conservation area.

Policy DM33 states:

*Development within, affecting the setting of, or views into and out of a conservation area, will preserve or enhance all features that contribute positively to the area's special character or appearance.*

- 4.2 Supplementary Planning Guidance (SPG): “Designing an Extension – a Guide for Householders” provides guidance on the design and scale of extensions. With regards to dormer windows, the guidance states that

*5.5 Dormers should be in proportion with the roof and only as large as necessary to allow light into the roof space. As a guide the dormer should be no deeper than half the depth of the roof slope and have square proportions or a vertical emphasis. They should normally have pitched roofs with tiles to match the main roof. Suitably designed dormer windows are preferred to rooflights in Conservation Areas and the Area of Outstanding Natural Beauty.*

- 4.3 With regards to the scale of rear extensions the SPG states:

*5.7 For single storey rear extensions close to your neighbour’s common boundary, the Borough Council considers that a maximum projection of 3.0m will be allowed. A first floor extension should not exceed 1.8m (with two storey rear extensions the potential impact can be even greater). Leaving a gap to the boundary with your neighbour may offset this requirement slightly depending on the distance allowed.*

*5.9 On well spaced detached properties or where an extension is to be built away from the boundary a larger extension may be acceptable.*

- 4.4 With regards to windows, the guidance states:

*6.0 Side windows should be avoided to reduce overlooking and mutual loss of privacy, although high level windows (with an internal sill height of at least 1.65m) may be acceptable.*

- 4.5 Supplementary Planning Guidance (SPG): “Conservation Areas” states that

*Any new development should preserve or enhance the special character or appearance of a conservation area, whilst allowing the area to remain alive and prosperous. It will be important to see that every new building is designed not as a separate entity, but as part of a larger whole which has a well established character of its own. **A high standard of development therefore will be required for all buildings in conservation areas and for extensions to existing buildings.***

- 4.6 Supplementary Planning Guidance (SPG): “Parking Standards” (May 2020) recommends 3+ parking spaces for a three-bedroom house in a rural location.

## 5. LOCAL REPRESENTATIONS

- 5.1 One objection has been received raising concerns regarding loss of light to rooms with windows along its side elevation, as well as to its patio area. They also are concerned that the proposed black timber cladding will worsen this issue and result in an offensive outlook from their property. Also, they do not believe the alterations are in keeping with neighbouring bungalows which have historic value in The Street.

## 6. CONSULTATIONS

- 6.1 Borden Parish Council objects, commenting as follows:

*“... it would be out of character in the row it is within and with the substantial use of glass and minimal use of traditional materials. It is also in conservation area and would overlook the neighbours property.”*

- 6.2 The Council's Tree Consultant recommended that a one metre bed of shrubs and trees are planted inside the front boundary wall, or a hedge with at least one tree.

## **7. BACKGROUND PAPERS AND PLANS**

- 7.1 Application papers and drawings referring to application reference 22/501315/FULL.

## **8. APPRAISAL**

- 8.1 I consider the key issues in this case are its design and the impact on the character and appearance of the conservation area, and the impact upon residential amenities of neighbours.

- 8.2 The Character Appraisal and Management Plan for The Street (adopted April 2021) describes the area as:

*The next property is the locally important building of St Martin's Cottage, dating back to 1777. This is a very attractive building slightly set back on its plot with low iron railings in front.*

*The run of historic interest is then broken up by a series of late 20<sup>th</sup> century bungalows set far back on their plots with paved and concreted fronts. The low brick walls which front onto the pavement area are not in character with the more historic boundary treatments in the Conservation area. The bungalows occupy the former site of the Vicarage and still feature the Gargoyles associated with this 19<sup>th</sup> century building... although this quirk is somewhat spoiled by the insensitive siting of a CCTV camera right next to one.*

And identifies the key negative characteristics as:

- *Low brick retaining walls at the frontage of modern 20<sup>th</sup> century properties not in character in size and material and detract from the appearance of the street scene where they occur on The Street and School Lane.*
- *Areas of hard standing and parking in the front of the setback 20<sup>th</sup> century buildings on the south side of The Street. This creates a discordant note to the street scene.*

- 8.3 I believe the proposed scheme is well-considered and takes on board the advice given at pre-application stage. In particular, the enclosed frontage has since been significantly modified to protect the character of the conservation area street scene. I consider the new brickwork wall with dog tooth dentils and planting of a new hedgerow would enhance the character and appearance of the conservation area.

- 8.4 I consider the raising of the main roof being proposed here to be minimal and in keeping with the adjoining bungalow. The alterations will still leave a single storey appearance, so this property will still sit well within the street scene. The design of the front dormer conforms to the SPG guidance, and the use of featheredged boarding is considered



appropriate for a property located within a conservation area. Furthermore, the aluminium framed glazing to replace the existing UPVC framed windows to the property will be an improvement. This accords with the aim of policy DM33 that new development within a conservation area should be sensitive to the special character of the area and of a high standard of design.

- 8.5 I have carefully considered the neighbours' concerns about the rear extension blocking out light to their bungalow and patio area. The proposed two storey extension would project four metres to the rear at both ground and first floor levels. The Council's SPG sets out local guidance that a larger rear extension may be allowed on detached properties or where an extension is to be built away from the boundary. In this case, the proposed two storey rear extension will be situated approx. 4.5m away from the common boundary with Ridgeways, and moreover, the living accommodation at Ridgeways is set away from the boundary, so I do not consider it will adversely impact on the living conditions of this neighbouring property. Neither do I see an issue in relation to the amenities of St Martins Cottage, as this already has a long rear wing that projects much further rearwards than the rear wall of St Mawes. I consider the proposed two storey rear extension to be appropriately designed and of an acceptable scale in relation to both adjacent properties.
- 8.6 The new bedroom at first floor will have glazed doors within the gable end overlooking the rear garden but I do not believe this will result in any harmful overlooking as they face directly down the garden, not towards the rear gardens of the adjacent properties. The rooflights within the gable end will serve the ensuite and master bedroom. I recommend imposing a condition which require these rooflights to open only 1.7m above the finished floor levels of the rooms they serve and maintained as such to prevent any loss of privacy to the properties either side.
- 8.7 The rooflight serving bedroom 2 will be positioned at eye level which will provide some outlook to this room. As this rooflight will be positioned on the rear facing roofslope, I do not believe there will be any overlooking issues here if it is set below eye level.

## **9. CONCLUSION**

- 9.1 I consider that the proposal is acceptable in terms of its design and impact upon the character and appearance of the conservation area, and upon the residential amenities of neighbouring properties. I therefore recommend that planning permission be granted.

## **10. RECOMMENDATION**

GRANT Subject to the following conditions:

### **CONDITIONS**

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

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

- (2) The development hereby approved shall be carried out in accordance with approved drawings, including in accordance with the specification of materials to be used in the construction of the external surfaces of the extension set out thereon:

01.22.02; 01.22.05B; 01.22.06C; 01.22.07 and 01.22.09C.

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

- (3) The proposed rooflights to bedroom 1 and ensuite on the gable roof of the rear extension hereby permitted shall have a cill height of not less than 1.7m above finished inside floor level and shall subsequently be maintained as such.

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

### **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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<b>2.5 REFERENCE NO - 22/501387/FULL</b>		
<b>APPLICATION PROPOSAL</b> Installation of a Dropped Kerb to accommodate a front driveway		
<b>ADDRESS</b> 2 All Saints View Seasalter Road Graveney Faversham Kent ME13 9EB		
<b>RECOMMENDATION</b> -Grant subject to conditions		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council Objection		
<b>WARD</b> Boughton And Courtenay	<b>PARISH/TOWN</b> Graveney With Goodnestone	<b>COUNCIL</b> <b>APPLICANT</b> AJE Properties <b>AGENT</b>
<b>DECISION DUE DATE</b> 06/06/22		<b>PUBLICITY EXPIRY DATE</b> 17/05/22

## 1. DESCRIPTION OF SITE

- 1.1 2 All Saints View is a two storey semi detached property located outside the built area boundary. There is existing gravel drive to the front and a private amenity space to the rear.
- 1.2 The surrounding area is characterised by semi detached properties of a similar scale and design.

## 2. PROPOSAL

- 2.1 This application seeks planning permission for insertion of a dropped kerb to allow vehicular access to the property. The existing drive will remain and the proposed dropped kerb would measure 3m in length.

## 3. PLANNING CONSTRAINTS

- 3.1 Potential Archaeological Importance

## 4. POLICY AND CONSIDERATIONS

- 4.1 Development Plan – Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies

CP4: Good design  
DM14: General development criteria

## 5. LOCAL REPRESENTATIONS

None

## 6. CONSULTATIONS

- 6.1 Graveney and Goodnestone Parish Council made the following comments:

*'The Parish Council wishes to raise their objections to this application on grounds of road safety. The design of this application means that if applicant drives in they will be required to reverse out onto the busy main road. There is scope to have a parking bay in the applicants front garden going over the side footpath (not roadside) not the existing car park where there is room to turn the car.'*

*There are very limited footpaths in the village and by having the dropped kerbs makes navigating the footpath more hazardous for those who are disabled or mums and their prams.*

*Lastly the council would like to point out that they objected to a new vehicular access next door but one (Marshview) and this was upheld by Swale.'*

6.2 KCC Archaeologist confirmed that no archaeology measures are required in connection with the proposal.

6.3 KCC Highways and Transportation commented

*'whilst the proposal does not include turning facilities to enable a vehicle to enter and exit the site in forward gear, it is noted that the neighbouring property of this pair of semi detached houses already operates a similar access, and on balance it would be preferable to remove a vehicle from parking on-street in this location.*

*Consequently, I have no objections to the proposals subject to the following requirements being secured by planning conditions attached to any planning permission granted.'*

## **7. APPRAISAL**

7.1 I consider the key considerations in the determination of this application are the effects upon highway safety and the character and appearance of the area.

7.2 The application proposes a dropped kerb on a classified road, which the Parish Council have objected to, on highway safety grounds. However, Kent Highways raise no objection subject to the conditions set out below.

7.3 I note the existing shingle area has ample space to provide two parking spaces which falls in line with the SPD dimensions 5m x 2.5m.

7.4 The adjoining property benefits from off road parking and a vehicle crossover, also the off road hardstanding parking area is already in situ. Although there is no planning history for the vehicle crossover next door, I consider that this alteration would be in keeping with the existing streetscene and would remove on street parking as an alternative, which is considered to be a benefit.

## **8. CONCLUSION**

8.1 Taking the above into account, I do not consider that the works would give rise to any serious highway safety or amenity concerns and therefore recommend that planning permission should be granted.

## **9. RECOMMENDATION**

GRANT Subject to the following conditions

### **CONDITIONS**

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

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

- (2) The vehicle crossover shall not be installed until details of the measures to prevent the discharge of surface water onto the highway have been submitted to and approved in writing by the Local Planning Authority, and the works shall be implemented in accordance with the approved details.

Reason: In the interests of highway safety and convenience.

- (3) The vehicle crossover shall not be installed until a scheme for the provision of a bound surface for the parking area has been submitted to and approved in writing by the local planning authority, and such works have been completed on site in accordance with the approved details.

Reason: In the interests of highways safety, to prevent loose material from the parking area being displaced onto the highway.

## **INFORMATIVES**

- It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway,

### **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.





<b>2.6 REFERENCE NO - 21/504388/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of a permanent agricultural dwelling with associated parking.		
<b>ADDRESS</b> Woodland Farm High Oak Hill Iwade Road Newington Kent ME9 7HY		
<b>RECOMMENDATION</b> Grant subject to conditions and SAMMS payment		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> There is an essential need for the applicant to reside at the site in order to operate the business, and whilst the proposed dwelling is large in scale, it is proportionate to the size of the farm.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection and called in by Ward Member		
<b>WARD</b> Bobbing, Iwade And Lower Halstow	<b>PARISH/TOWN COUNCIL</b> Bobbing	<b>APPLICANT</b> Mr Jy Stedman <b>AGENT</b> Consilium Town Planning Services Limited
<b>DECISION DUE DATE</b> 05/11/21	<b>PUBLICITY EXPIRY DATE</b> 24/02/22	

**Planning History**

14/506862/FULL

Variation of condition No.1 of planning permission SW/12/1221 to extend permission for mobile home for a further 3 years.

Approved Decision Date: 07.12.2015

SW/14/0502

Erection of poultry shed and grainstore, with associated access tracks, hardstandings, turning areas, land profiling and feed silos.

Approved Decision Date: 24.10.2014

SW/12/1221

Relaxation of condition (2) appended to planning permission SW/10/0631 to enable mobile home to be retained on site until the 25th January 2015

Grant of Conditional PP Decision Date: 13.11.2012

PN/11/0002

Prior notification for 3 agricultural buildings.

Prior Approval Required Decision Date: 11.02.2011

SW/10/0631

Erection of poultry house and temporary stationing of mobile home with associated improvement of existing access and provision of parking and turning areas.

Grant of Conditional PP Decision Date: 03.09.2010

**1. DESCRIPTION OF SITE**

- 1.1 The site is an established egg farm, and the land owned by the applicant extends to roughly 24 hectares of land, incorporating 9.5 Ha of grassland and the remainder as woodland. The south eastern section of the site is grassland that slopes steeply down towards High Oak Hill. The north western section of the site is woodland. The site is elevated and has wide ranging views over the Newington valley. The land included within this application is 0.2 hectares in size and is roughly rectangular. It includes the existing access onto the site from High Oak Hill and the area is located to the north east of the site.
- 1.2 The existing farm buildings are comprised of two large poultry sheds housing 28,000 hens, a barn, storage building and mobile home. The mobile home is occupied by the applicant and his family and was originally granted temporary planning permission under application SW/10/0631. Temporary permission for the mobile home has been extended by a number of applications, most recently under application 14/506862/FULL, where a condition on this application required it to be removed from site on or before 10<sup>th</sup> December 2018. No further applications have been submitted to extend this time period and as such the mobile home is currently in breach of this condition.
- 1.3 The site lies within the countryside, 220m to the northeast of the Newington Church Conservation Area. The site also lies within an Area of High Landscape Value. High Oak Hill, the highway off which the access to the site is taken, is designated as a Rural Lane. Wardwell Woods, the adjacent woodland to the north, is designated as a Local Wildlife Site whilst Hawes Wood also to the north is designated as ancient woodland. The surrounding area is mainly characterised by agricultural fields, with the closest dwelling, The Bungalow, lying to the east of the site.

## 2. PROPOSAL

- 2.1 This application seeks planning permission for the erection of a permanent agricultural dwelling at the site, which will replace the existing mobile home. The new dwelling will be located to the south east of the mobile home, on an area of maintained grassland. A gravel track will be created from the existing access road through the site, to provide vehicular access to the dwelling. Two parking spaces are shown to the front of the new dwelling, although additional parking could be achieved along the gravel driveway.
- 2.2 The property consists of a 4 bed detached dwelling, with projecting gables on the front and rear elevations and a single storey side extension on the north western side of the property. The ridge height of the dwelling will be 8.3m, whilst the eaves height will be 5m. Following the submission of amended plans reducing the scale of the dwelling, an open plan kitchen/dining room, lounge, office, boot room and cloakroom will be provided on the ground floor. On the first floor, four bedrooms and a bathroom will be provided. Proposed materials include facing brickwork, timber weatherboarding and clay roof tiles.
- 2.3 The planning statement sets out that the *“the owner of the business has lived on the site within the mobile home since 2010 and as created a very successful and important business providing free range eggs to the local area creating a successful rural company. As the company has expanded the on-site care of the poultry has become an*

*ongoing necessity and the owners family has also grown and it is now difficult to balance a family life and the business from a mobile home, which is obviously restricted in size and amenities. The mobile home has been used on the site for over a ten-year period and whilst it was adequate for a single occupier it is now cramped and considered unsustainable for a family.”*

### **3. PLANNING CONSTRAINTS**

- 3.1 Ancient Woodland – Hawes Wood lies to the north west of the site
- 3.2 Local Wildlife Site – Wardwell Woods lies to the north west of the site
- 3.3 Potential Archaeological Importance
- 3.4 Newington Church Conservation Area lies to the south west of the site
- 3.5 Iwade Road is a designated Rural Lane
- 3.6 Area of High Landscape Value Swale Level

### **4. POLICY AND CONSIDERATIONS**

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) encourage the provision of new dwellings within the defined built up areas, or outside of those areas in certain exceptional circumstances such as for the provision of agricultural worker’s accommodation, or the provision of affordable dwellings to meet an identified local need.
- 4.2 Paragraph 78 of the NPPF, in particular, states that *“to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality or rural communities... Local Planning Authorities should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*
  - *The essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
  - *Where such development would represent optimal viable use of a heritage asset; or*
  - *Where the development would re-use redundant or disused buildings...; or*
  - *The exceptional quality or innovative nature of the design of the dwelling. Such a design should be:*
    - o *Truly innovative...*
    - o *Reflect the highest standard of architecture;*
    - o *Significantly enhance its immediate setting...”*
- 4.3 Development Plan: Policies ST1, ST3, CP3, CP4, DM3, DM7, DM12, DM14, DM19, DM24, DM26, DM29 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017

## 5. LOCAL REPRESENTATIONS

- 5.1 Cllr Horton requested the application is called into committee if the planning department is recommending the application is approved.

## 6. CONSULTATIONS

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

*“Proposal for an impressive and imposing house; location will be visible from the village and harm the visual amenity of views of the woods on the hillside north of the village.*

*The planning statement gives a chronology of the chicken farm, but also contains errors:*

*It was considered at the time by the Local Planning Authority that this was essential to the functioning of the enterprise and provide security*

*This was the case made by the applicant. The local planning authority only granted temporary permission for a mobile home in a specified location, not visible from the village, and granted a temporary extension in 2014 – which has lapsed and could be the focus of enforcement action.*

*The Planning statement includes:*

*1.3 The proposal has been the subject of pre-application correspondence with the Local Planning Authority (Megan Harris) and the written response received dated on 14 April 2021 (21/500434/PAMEET) is attached in Appendix 1*

*There is no appendix 1 in the planning statement and so Newington Parish Council does not know what advice has been sought or given.*

*The planning statement quotes the NPPF*

*The new National Planning Policy Framework (NPPF) (2021) and National Planning Practice Guidance (NPPG) encourage the provision of new dwellings within the defined built up areas, or outside of those areas in certain exceptional circumstances **such as for the provision of agricultural worker’s accommodation** (emphasis added), or the provision of affordable dwellings to meet an identified local need.*

*This proposal is not within the defined built up area and it is certainly not an ‘affordable dwelling’. We question the need for on-site accommodation given the availability of devices to monitor and control equipment remotely. We note the pattern, across the country, of farmers selling desirable farmhouses and managing the farm equipment and security through use of ‘apps’ and do not understand why this could not be employed here.*

*The current on-site accommodation in a caravan was agreed for temporary extension in 2014. We regret that there has been neither a submission for further extension nor enforcement action by the local planning authority. We see nothing in the planning statement to suggest that changes or proposed changes to the farming methods require enhanced accommodation.*

*Kent Wildlife Trust confirms the site as ancient woodland 'irreplaceable habitat'. In addition to the endangering of woodland habitat the proposal would mar the visual amenity of this woodland from the village. If there were to be clear business case proving irrefutable necessity for on-site permanent accommodation, we suggest this should be through a modest unobtrusive bungalow positioned where the caravan is currently sited"*

- 6.2 Bobbing Parish Council – No comments.
- 6.3 Health and Safety Executive – Does not advise against the granting of planning permission on safety grounds.
- 6.4 Rural Planning Consultant – *"In 2011/12 Mr Stedman established a new free-range hen venture on some 16.4 ha, based on a 12,000 bird flock housed in a newly permitted poultry building. Planning permission was later granted under SW/14/0502 for a further free range poultry house for another 16,000 hens, plus two feed silos, the erection of a grain/feed store, and associated works.*

*The unit continues to require the on-site presence of a responsible owner/manager and provide a good level of profit. In principle, there is sufficient functional and financial justification for the provision of a suitable permanent dwelling here. The main issue to consider, in my view, is whether the particular dwelling proposed is appropriate, having regard to its role as a dwelling that would be restricted to agricultural occupancy, and would be permitted as an exception to the usual policy restraint on building houses in isolated countryside locations...*

*The house currently proposed remains much bigger, in my experience, than those usually permitted as a farm dwelling. It would include (ground floor) entrance hall with stairway, farm office, lounge, farm kitchen, farm boot room; (first floor) 4 double bedrooms, on with en-suite facilities, family bathroom, laundry room, and galleried landing. I estimate the gross external area to be some 276m<sup>2</sup>.*

*Whilst the office and boot room, for example, might to be argued to be farm-business related rather than private family accommodation, these rooms appear large for the purpose. It would be impossible, I suggest, to control exactly how individual rooms are used once the house were built. In any event I see no particular reason why the house needs to be so large in order to meet the functional requirements of the business and provide a reasonable family home.*

*The Planning Statement goes on to give a building cost estimate of "£270,000 based on an estimated cost of £150 per square metre". Again this is clearly an error and presumably what is meant is £150 per sq ft (1,810 x £150 = £271,500). However as the actual size is some 2951 sq.ft, the equivalent estimate would be £442,650.*

*Furthermore this is only a rough figure and no detailed estimate based on the particular design, and proposed materials, appears to have been submitted, nor any evidence of loan availability.*

*Accounts have been submitted for the four years up to 05 April 2020. There are no accounts submitted for the last financial year, but assuming the results remain comparable, it would appear that a good level of profit is being achieved. Nevertheless the net results from this sort of enterprise are very susceptible to relatively small changes in factors such as egg output, egg price, and feed price, and I would still be concerned, over the longer term, that the sort of large and expensive dwelling that is currently proposed would be affordable from the income that the farm business can sustain. This could lead to difficulty in complying with the usual agricultural occupancy condition and pressure for the removal of such a condition.*

*In conclusion, therefore, in my view the proposed dwelling does not properly comply with Local Plan policy DM12 and other guidance as to what sort of dwelling is normally considered appropriate for a farmhouse on a holding such as this.”*

The agent provided further financial details and the likely cost of the dwelling, and the Rural Planning Consultant was reconsulted. He reiterated his concerns that the dwelling was overly large, but didn't refer specially to a concern about the cost of the dwelling.

- 6.5 Environmental Health – No objections subject to standard hours of construction condition and provision of an electric vehicle charging point.
- 6.6 Forestry Commission – refer to standing advice.
- 6.7 Natural England – Development will result in the construction of a new dwelling within 6km of the SPA and as such mitigation is required. Refer to standing advice on ancient woodland.
- 6.8 Kent Wildlife Trust – *“Given the close proximity of the development to the LWS/ancient woodland we advise that measures for avoiding impacts during the construction phase should be specified, and secured via a suitable planning condition. It is anticipated that impacts from construction will include disturbance of wildlife through increased noise and lighting, contaminated surface water runoff, as well as degradation of ancient woodland habitat through dust which may have direct impacts on plant health and survival. We advise that lighting and drainage strategies, which account for sensitive wildlife receptors, be submitted and secured. Further, a construction management plan should identify measures to avoid impacts to the protected site.*

*It is Kent Wildlife Trusts view that a 50m buffer strip comprising managed traditional orchard habitat, in combination with a suitable mitigation strategy for the construction stage, should be sufficient to avoid degradation of the LWS/ancient woodland.”*

The distance between the propose dwelling and LWS/ancient woodland is 32m, and as such only a 32m buffer zone is provided. I sought clarification from Kent Wildlife Trust to understand whether they are satisfied with a 32m buffer zone. They provided the below comments:

*“It is my opinion that **if** a 32m buffer zone was suitably maintained for the benefit of wildlife and therefore served as a functional buffer zone then it is likely to be sufficient to protect the woodland from the development of a single dwelling. This is reliant on suitable conditions securing the protection of the buffer zone and the implementation of a management plan which has been prepared by an ecologist.”*

- 6.9 KCC Ecology – *“As the site is regularly grazed/mown grassland we are satisfied that it is unlikely that protected species will be impacted by the proposal and as such do not require specific species surveys to be carried out.*

*The proposal is within 50m of the Hawes Wood and Wardwell Wood, Newington Local Wildlife Site (LWS) and Ancient Woodland (AW) and therefore there is potential for the operational and construction phase to negatively impact the LWS and AW. To address the impacts from construction we advise that measures must be included within the construction management plan to minimise impacts due to increase in dust or water run off.*

*To address the impacts from the operational phase we recommend that the lighting is designed to minimise impacts associated with external lighting – we recommend that the measures within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals are also relevant to minimising impacts on the LWS and AW.*

*One of the principles of the National Planning Policy Framework is that “opportunities to improve biodiversity in and around developments should be integrated as part of their design” In addition to the inclusion of ecological enhancement features within the building /site we recommend we recommend that a strip of vegetation directly adjacent to the LWS/AW is, largely, left unmanaged to enable plants and grasses to grow and set seed. This will create a buffer between the site and the LWS/AW and provide additional habitat for insects which, in turn, will support the pollination within the orchard.*

*We recommend that if planning permission is granted an ecological enhancement plan is submitted as a condition of planning permission. Suggested wording at the end of the report.”*

- 6.10 KCC Highways – Proposal doesn't meet the criteria to warrant involvement from the Highways Authority.

- 6.11 KCC Archaeology – *“The proposed development lies in an area with archaeological potential especially arising from remains on the nearby high land. The proposed new development would involve ground excavations in presently undeveloped land. Given the potential for impact on archaeology I recommend that provision is made for a programme of archaeological works through the following condition should consent be granted.”*

## **7. BACKGROUND PAPERS AND PLANS**

- 7.1 Plans and documents relating to application 21/504388/FULL.

## 8. APPRAISAL

### Principle of Development

8.1 The site is located outside any built-up area boundary, and therefore falls within the lowest, least acceptable tier of the settlement hierarchy, as set out by policy ST3. Both the Local Plan and the NPPF make clear that to promote sustainable development in rural areas, new isolated homes should be avoided, except in special circumstances, such as to meet an essential need for a rural worker to live permanently at or near their place of work in the countryside.

8.2 Policy DM12 of the Local Plan (which relates to dwellings for rural workers) states that:

*“Planning permission will be granted for new, permanent, rural worker dwellings in the countryside, subject to:*

- 1. There being a clearly established, existing, essential need for the proper functioning of the enterprise for a full-time worker to be readily available at most times;*
- 2. There being no suitable existing dwelling available nearby or in a nearby settlement;*
- 3. The location, scale and design of the dwelling maintaining or enhancing landscape and countryside character; and*
- 4. The siting of the dwelling should, firstly, explore whether there are suitable buildings available for conversion at the enterprise, or secondly, in the case of a demonstrated need for a new building, that it is located as close as possible to existing buildings on previously developed land at the enterprise, or if this is not possible, within the immediate locality on an acceptable site.”*

8.3 The relevant sections of the supporting text to this policy are as follows:

*“Whether a new dwelling is essential in a particular case will depend on the needs of the enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved... Any dwelling permitted must be appropriate for the need and to its rural location... In cases where a dwelling is considered by the Council to be essential to support an enterprise, it will normally be appropriate for permission to be initially granted for a caravan or temporary structure for a limited time period, usually for a minimum period of three years... a financial test will be necessary to demonstrate that the enterprise is economically viable and to provide evidence of the size of the dwelling that the unit can sustain.”*

8.4 I note that a functional need for accommodation on this holding, in principle, has been accepted previously in the form of the temporary permissions for the mobile home. The business has grown since the mobile home was first placed at the site. The applicant established the free-range hen venture in 2011/2012, based on a 12,000 bird flock. Planning permission was later granted under SW/14/0502 for a further free range poultry house for another 16,000 hens, plus two feed silos, the erection of a grain/feed store,



and associated works. The planning statement sets out that the expansion of the business has resulted in care of the poultry becoming an on-going necessity, and the applicant's family has also grown, and as such the existing mobile home is not large enough to balance family life and business matters. Financial accounts for the last four years have also been provided with the application, demonstrating that the business has provided a good level of profit and the construction of the dwelling can be funded by accruing previous years profits and also taking a mortgage.

- 8.5 The Rural Planning Consultant has reviewed the application and in his opinion, the unit continues to require the on-site presence of a responsible owner/manager and provides a good level of profit and as such in principle, he considers there is sufficient functional and financial justification for the provision of a suitable permanent dwelling here. I concur with this view, and am satisfied that an essential need for a rural worker to live permanently at their place of work has been demonstrated.
- 8.6 The Rural Planning Consultant does however have concerns about the scale of the dwelling, which originally had a floorspace of 230sqm. The agent was informed of these concerns, and reduced the scale of the dwelling to 212sqm. The Rural Planning Consultant remains concerned about the scale of the dwelling, and as such careful consideration is required to identify whether any planning harm will arise from a dwelling of this scale at the site.
- 8.7 Cancelled Planning Policy Statement 7 sets out in Annex A that *“Agricultural dwellings should be of a size commensurate with the established functional requirement. Dwellings which are unusually large in relation to the agricultural needs of the unit, or unusually expensive to construct in relation to the income it can sustain in the long term, should not be permitted. It is the requirements of the enterprise, rather than the owner or occupier, which are relevant to determining the size of the dwelling that is appropriate to a particular holding.”* The supporting text to policy DM12 in the Local Plan does set out that in the absence of further national guidance on the issue of housing for rural works, the Council will continue to have regard to Annex A.
- 8.8 However it is important to note that this assessment of scale has not been carried forward into the current NPPF, and therefore in my view, little weight can be given to the advice set out in PPS7, as it is now defunct and there is no such reference to scale of rural workers dwellings within current national policy and guidance. This position has been supported by planning appeal decisions elsewhere in the country, where Inspectors have allowed larger agricultural dwellings that can be sustained by the income from the business, whilst being larger than “typical” agricultural dwellings - such as an appeal for an agricultural dwelling in Doncaster (PINS ref 3243097). Similar to policy DM12 in the Swale BC Local Plan, the relevant policy in this appeal case also referred to the defunct PPS7 guidance, and the Council used this supporting text to support the refusal of the agricultural dwelling, which was considered to be excessive in scale. The Inspector considered there was some policy basis for this view, but gave it limited weight given PPS7 is cancelled and the NPPF doesn't refer to the scale of agricultural dwellings. The Inspector went on to conclude that whilst the dwelling was large, there was an essential need for a dwelling on the holding, which was long established and viable. They set out there was no dispute that the appellant can support

the construction of the dwelling in relation to the income sustained in the long-term, and allowed the appeal. In the appeal decision, the Inspector noted that an average 4 bed dwelling was 192 sqm and that a typical agricultural workers dwelling was in the region of 180sqm. This proposal at Woodland Farm is for a dwelling of 212sqm, although it is noted that elements of the building would be used as a farm office and boot room.

- 8.9 The proposed dwelling is undoubtedly large and greater in size than a typical agricultural workers dwelling. However, I pay regard to the fact that it is clear that an agricultural dwelling is required at the site, which has been operating for over ten years and has grown considerably, as have the profits. I also note the enterprise can sustain the construction costs of the dwelling, and ultimately believe the scale of the dwelling, whilst large, is commensurate with the established functional requirement of the holding, in line with policy DM12.

### **Visual Impact**

- 8.10 The site is identified as being within an Area of High Landscape Value Swale Level, 'Iwade Arable Farmlands', where under the assessment within the Swale Landscape Character and Biodiversity Appraisal (June 2010), the landscape condition of the area is described as 'Poor' and the sensitivity is 'Moderate'.
- 8.11 The development will be located on an open area of grassland, which is on an elevated position at the site. As such, there is potential for views of the development from the valley to the south west. The development is set back from the ridge of the hill however, and due to this and the presence of existing trees within the site, limited views of the development will be possible from the valley in my opinion. The dwelling will be situated to the south east of the existing mobile home, in a more exposed location when compared to the mobile home. The planning statement sets out the dwelling has been repositioned to provide a direct view of the entrance of the site, which will offer additional security which is currently not experienced. I consider the positioning of the dwelling, whilst more exposed to views from the bottom of the valley to the south west, will not be significantly prominent in the landscape and as such have no concerns with its location.
- 8.12 Views of the development from Iwade Road, a designated rural lane will be possible, however given the distance of approximately 80m between the property and the road, and the established planting that is located along Iwade Road, I do not consider that the proposal will be prominent from the lane. At 8.3 metres in height, I am satisfied that this falls within the typical height range for a two-storey dwelling.
- 8.13 Turning to the design of the dwelling itself, the application originally proposed a 'mock Tudor' style dwelling, with white render and timber vertical panelling. I did not consider this would accord with the rural context of the site, and recommended horizontal timber weatherboarding would be more appropriate here. The agent subsequently amended the plans to show this, and I include a condition below to ensure specific material details are provided to the Council. Overall, I consider the design of the property is acceptable and will not appear out of place. I do include a condition below ensuring the mobile home is removed from site once the new dwelling is occupied, to avoid the concentration of multiple dwellings at the site.

### **Heritage Impact**

- 8.14 The site lies outside of the Newington Church Conservation Area, but due to the open nature of the site and surrounding countryside, will be visible from part of the Conservation Area. Due to the distance (approx. 270m) and change in land levels between the site and Conservation Area, it is not considered there will be harmful impacts to the setting of the Conservation Area.
- 8.15 With regards to the impact on designated and non-designated heritage assets in the surrounding area I consider that due to distance and intervening tree and hedge cover, Oak Hill Farmhouse (a non-designated heritage asset) would not be impacted by the proposed dwelling. Snakesbury Cottage (at the north eastern edge of the Newington Church Conservation Area) on the other hand does appear to have greater intervisibility with the proposed development. However, the significant distance between this building and the proposed development area does mean that any impact on the setting of this non-designated heritage asset would be very limited. As such, I have no concerns in this regard, despite the strong weight that is required to be given through legislation and national and local policies to the protection of heritage assets.

### **Residential Amenity**

- 8.16 Due to the location of the proposed dwelling and limited neighbouring properties in the surrounding area, I do not envisage the proposed dwelling will have any unacceptable impacts on residential amenity. The closest residential dwelling, The Bungalow will be located approximately 57m from the new dwelling, and due to this distance, any impacts on this neighbouring property will be very limited.

### **Highways**

- 8.17 The development will utilise the existing access onto the site, and a separate gravel driveway will be created leading from the main access to the new dwelling. Three parking spaces need to be provided for a property of this scale in the countryside, and the hardstanding to the front of the dwelling can comfortably accommodate these spaces. As such, I have no concerns from a highway amenity perspective.

### **Landscaping and Ecology impact**

- 8.18 The site is located to the south west of Hawes Wood and Wardwell Wood, which are designated as ancient woodland (AW) and a Local Wildlife Site (LWS). Natural England and the Forestry Commission have both referred me to their standing advice, whilst Kent Wildlife Trust and KCC Ecology have provided more specific comments on the application.
- 8.19 Kent Wildlife Trust originally set out that a 50m buffer zone should be created between the proposed dwelling and the AW/LWS, however the positioning of the dwelling results in a 32m buffer strip. I sought clarification from Kent Wildlife Trust regarding the 32m buffer strip, taking into account the detailed comments also received from KCC Ecology.

The advice from KCC Ecology is that the development is set an acceptable distance from these protected sites, and subject to the land between the new dwelling and the woodland being maintained as a buffer zone, they do not consider the development will cause harm to these features. In particular, KCC Ecology set out that they recommend that a strip of vegetation directly adjacent to the AW/LWS is, largely, left unmanaged to enable plants and grasses to grow and set seed. This will create a buffer between the site and the adjacent woods and provide additional habitat for insects which, in turn, will support the pollination within the orchard. Kent Wildlife Trust have subsequently revised their comments and confirm that a 32m buffer strip is acceptable subject to conditions securing the strip and long term management of this feature.

- 8.20 For clarity, the agent has been asked to annotate the buffer area on the block and site plans, as well as the residential garden, to ensure that it is clear that the domestic curtilage of the dwelling will not interfere with this ecologically important strip of land. These plans have been provided.
- 8.21 Taking into account the consultee comments, I impose a condition ensuring that an ecological enhancement plan is submitted to the Council, which will include details of the rough grassland buffer requested by KCC Ecology, and will secure the long term management of this area. I consider this condition will ensure the development does not harm the Ancient Woodland or Local Wildlife Site, in accordance with the advice from these expert consultees.
- 8.22 It is anticipated that impacts from the construction of the development will include the disturbance of wildlife through increased noise and lighting, potential for contaminated surface water runoff, as well as the generation of dust which may have direct impacts on plant health and survival. Both Kent Wildlife Trust and KCC Ecology have raised these matters, and request a construction management plan is submitted to mitigate these potential issues. I impose this condition below and consider with it in place, it will ensure the protection of the AW and LWS during the construction of the development.
- 8.23 The Council's Tree Consultant has also commented on the scheme and notes the application is not accompanied by any arboricultural information, however based on the proposed site layout plan and current aerial views of the site via Google imagery the position of the new dwelling is not likely to affect any significant trees. Therefore, there are few arboricultural constraints when it comes to the position of the new dwelling. He does however recommend a condition is imposed requiring the submission of a tree protection plan to ensure the projection of the woodland buffer and any surrounding trees. I impose this condition below.
- 8.24 Additional landscaping is shown on the proposed block plan to the north east and north west of the dwelling. I include the relevant conditions below to ensure full details of hard and soft landscaping are submitted to the Council.

#### **SPA Payment**

- 8.25 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**

8.26 The site lies in an area of potential archaeological importance, and KCC Archaeology have requested a programme of archaeological work is submitted. I impose this condition below.

## **9. CONCLUSION**

9.1 I consider that there is a clear need and justification for a permanent agricultural dwelling at the site, and that this represents an appropriate exception to the general restriction on isolated new dwellings in the countryside. The proposal, whilst large, is considered to be of appropriate siting and scale, and the development would not harm the protected ancient woodland and Local Wildlife Site to the north of the site, subject to conditions. On the basis of the above, I recommend planning permission is granted.

**10. RECOMMENDATION** – That planning permission be 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.

(2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3277 - 002 Rev F, 3277 - 003 Rev E, 3277 - 004 Rev E and 3277 - 005 Rev D.

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

(3) The dwelling 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.

- (4) 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.

- (5) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan should address the following matters, and the approved details shall be adhered to throughout the construction period.

- Suppression of dust
- Contaminated surface water run
- Noise and lighting

Reason: In the interests of wildlife and biodiversity.

- (6) No development shall take place until a tree protection plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall be carried out in accordance with BS5837:2012.

Reason: To ensure protection of the woodland buffer and any surrounding trees.

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

Reason: In the interest of visual amenity.

- (8) 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.

- (9) No development beyond the construction of foundations shall take place until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. Such scheme shall demonstrate that it has been designed to ensure there will be minimal light spill on to the site boundaries and the surrounding area. The lighting scheme should follow the recommendations within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals.  
<https://cdn.bats.org.uk/pdf/Resources/ilp-guidance-note-8-bats-and-artificial-lighting-compressed.pdf?mtime=20181113114229>

Reason: In the interests of biodiversity.

- (10) No development beyond the construction of foundations shall take place until an ecological enhancement scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall set out the ecological enhancement features to be incorporated into the wider site and shall include measures for a rough grassland buffer zone between the dwelling and Hawes Wood, as shown on drawing no. 3277 – 002 Rev F, and a management plan for its long-term maintenance and retention. The scheme must be implemented as approved prior to first occupation of the dwelling hereby permitted and maintained in accordance with the management plan thereafter.

Reason: In the interests of biodiversity.

- (11) 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 interest of residential amenity.

- (12) The area shown on the submitted layout shown on drawing no. 3277 – 002 Rev F as vehicle parking 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 dwelling, 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.

- (13) Prior to the occupation of the dwelling hereby permitted, one electric vehicle charging point shall be provided. The Electric Vehicle charger 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.

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

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

- (15) Upon completion 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.

- (16) 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.

- (17) The existing mobile home shall be removed from the site within a period of three months following first occupation of the dwelling hereby permitted.

Reason: In the interests of visual amenity.

- (18) The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed locally in agriculture as defined in Section 336(i) of the Town and Country Planning Act 1990 or in forestry and any dependent of such a



person residing with him (but including a widow or widower of such a person).

Reason: The site lies outside any area in which planning permission would normally be granted for a new dwelling and this permission is only granted because the dwelling is considered essential in the interests of forestry or agriculture.

- (19) Upon completion, no further development, whether 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) or not, shall be carried out.

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

### **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 (to be secured by either the SAMMS payment form or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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



**PLANNING COMMITTEE – 23 JUNE 2022****PART 3**

Report of the Head of Planning

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

<b>3.1 REFERENCE NO - 22/501078/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Retrospective application for a change of use of agricultural land to residential and erection of detached double garage.			
<b>ADDRESS</b> Cripps Farm Plough Road Minster-on-sea Sheerness Kent ME12 4JH			
<b>RECOMMENDATION</b> Refusal			
<b>SUMMARY OF REASONS FOR REFUSAL</b>			
The application site lies outside of any built up area boundary as defined by the adopted "Bearing Fruits 2031: The Swale Borough Local Plan 2017", and is therefore considered to lie within the open countryside where adopted Local Plan policy ST3 seeks to restrict development other than in certain specific exceptions which do not apply to this proposal. Moreover, the garage block due to its scale and prominent position beyond the discernible confines of the residential curtilage results in a contrived boundary line and overtly domestication of the site which brings about the introduction of urban features and subsequently a significant change in the character and appearance of the countryside. In addition, the proposal lacks an appropriate landscaping scheme or suitable justification for the loss of agricultural land.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Parish Council Support			
<b>WARD</b> Sheppey East	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Mr David Buckley <b>AGENT</b> Wyndham Jordan Architects	
<b>DECISION DUE DATE</b> 26/05/22		<b>PUBLICITY EXPIRY DATE</b> 12/05/22	
<b>RELEVANT PLANNING PERMISSION</b>			
<b>Application No.</b>	<b>Description</b>	<b>Recommendation</b>	<b>Decision Date</b>
19/500129/FULL	Demolition of existing outbuilding. Erection of two storey side extension, rear infill extension and two detached two storey triple garages	Refusal	02.05.2019
19/502305/FULL	Demolition of existing outbuilding. Erection of two storey side extension, rear infill extension, loft conversion and detached triple garage to rear (Resubmission to	Approved (Planning Committee Overturn)	Decision Date: 06.09.2019

	19/500129/FULL)		
19/503511/FULL	Retrospective application for a new front wall with drive way access from main highway (Plough Road).	Deferred from planning committee	
22/501076/LDCEX	Lawful Development Certificate (Existing) for a change of use of land and stationing a static caravan to be used as an annexe to a residential dwelling.	Pending decision	
22/501079/FULL	Part retrospective application for the erection of an agricultural barn for storage of machinery, hay and livestock	Pending decision	
22/501077/FULL	Retrospective application for a pond for use by wildfowl.	Approved	13.05.2022

## 1. DESCRIPTION OF SITE

- 1.1 The application site consists of a dwelling within large grounds on the north side of Plough Road. The original dwelling on site was replaced following the grant of planning permission Ref: SW/98/0163. Following this, the new dwelling was substantially extended under Ref: 19/502305/FULL, resulting in the current property – a large two storey detached property with a high hipped roof profile to accommodate additional accommodation within the roofspace. The property is constructed from red brick, set back from the road by approximately 15 metres, with a large unfinished area of hardstanding to the front, void of any landscaping.
- 1.2 The garage subject to this application is located to the rear and has been substantially completed. Although the permission granted under 19/502305 included a garage, the garage as built has been erected in a different location and outside of the lawful residential curtilage of the property.
- 1.3 Immediately opposite the site to the south but not clearly visible due to the existing hedgerow along the northern side of Plough Road is Kingsborough Manor, a large residential housing estate (Ref: SW/95/0102).
- 1.4 To the east, the neighbouring property is a detached dwelling known as Appleyard Barn which lies approximately 25 metres to the east of the application property and further east is another detached residential property 'Jefferson Villa'.
- 1.5 Open agricultural land borders the site to the north and west. The land immediately to the north of the application site, and which wraps around the neighbouring properties to the east is all within the ownership of the applicant.
- 1.6 The site is located within the open countryside.

## **2. PROPOSAL**

- 2.1 Retrospective planning permission is sought for the change of use of a small section of agricultural land to residential use, to accommodate a detached double garage.
- 2.2 The garage block is located to the rear of the dwelling at the far northeastern corner of the site which joins an agricultural field within the same ownership to the rear of the site.
- 2.3 As stated above, this application follows from a previous application Ref: 19/502305/FULL, whereby a triple garage of similar dimensions was approved in an area forward (south) of the current proposed location but within the existing residential curtilage. The previously approved garage was designed to replicate the appearance of the host dwelling with facing brick work finished with a barn hip roof. It measured 10 metres wide, 7.2 metres deep with an eaves height of 2.4 metres and 6 metres high to the ridge. The garage was set back into the site by 50 metres when measured from the front boundary.
- 2.4 This retrospective application seeks permission for the garage as built. It is sited behind the location of the previously approved garage and beyond the permitted residential curtilage of the site. This garage is of a similar design to the previous approval, albeit the scale is larger and the triple garages doors have been replaced with double doors. The garage measures 10.5 metres wide and 8.5 metres deep, with a height of 6.35metres to the ridge. Although there is no physical demarcation on site of the boundary between the residential land and agricultural land to the north, the garage as built and as shown on the submitted drawings, results in a rectangular shaped incursion into the agricultural land to the north, measuring 10m by 11.5m which is drawn around the perimeter of the garage block.

## **3. PLANNING CONSTRAINTS**

- 3.1 Potential Archaeological Importance
- 3.2 Within the open countryside

## **4. POLICY AND CONSIDERATIONS**

- 4.1 The National Planning Policy Framework (NPPF) 2021
- 4.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017

Policy ST1 Delivering sustainable development; Policy ST3 The Swale settlement strategy; Policy ST6 The Isle of Sheppey area strategy; Policy CT2 Promoting sustainable transport; Policy CP4 Requiring good design; DM13 Extending the garden of a dwelling in the rural area; Policy DM7 Vehicle parking; Policy DM14 General development criteria; DM28 Biodiversity and geological conservation

- 4.3 Swale Parking Standards SPD 2020

## **5. LOCAL REPRESENTATIONS**

- 5.1 None received

## 6. CONSULTATIONS

- 6.1 Minster Parish Council – Support the application, the proposed siting will be adjoining a barn and forming a single group of buildings as such its position in supporting the proposal stands.

*Officers response: the adjoining barn does not benefit from planning permission and is pending consideration under Ref: 22/501079/FULL*

## 7. APPRAISAL

### Principle of development and visual impact

- 7.1 The Government attaches great importance to the design of the built environment. The revised National Planning Policy Framework (2021) states that good design is a key aspect of sustainable development and advises that permission should be refused for development that fails to improve the character and quality of an area. Paragraph 174 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by (inter alia) protecting and enhancing valued landscapes, and recognising the intrinsic character and beauty of the countryside, including the benefits of best and most versatile agricultural land.
- 7.2 The site is located within open countryside, outside of any defined built-up area boundaries. Policy ST3 of the Local Plan states that development in these locations 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.
- 7.3 Policy DM11 of the Local Plan allows for the extension / replacement of dwellings in the countryside. The Council has often applied elements of this policy in relation to outbuildings such as garages within the residential curtilage of such dwellings. However as the garage has been built outside of the residential curtilage, I do not consider that this policy can be used to support the proposal. Nor do I consider that the previous permission for a garage within the residential curtilage provides any support to allow this application as an alternative – given that the garage has been built on land outside of the residential curtilage. In my opinion, there is no policy support under DM11 for the erection of a garage outside of the permitted residential boundary of the property. There also appears to be absolutely no reason why it was not possible to erect the building within the large residential curtilage that this property enjoys.
- 7.4 The garage, as built, is on land that encroaches beyond the rear residential curtilages of all three dwellings – Cripps Farm, Appleyard Barn & Jefferson Villa into the rural landscape and proposes an unusual re-aligned residential boundary line that wraps around the garage as built. In my opinion this would harm the character of the rural landscape through the encroachment of development into the undeveloped countryside. Although a large detached garage has been permitted within the permitted residential curtilage of Cripps Farm, the location of a large detached garage as built on land beyond this curtilage encroaches into the countryside in a more harmful way, extending the built form further to



the north of the residential boundary and into the open countryside. In addition, the structure is larger than the permitted garage building.

- 7.5 Policy DM13 of the Local Plan does relate specifically to proposals to extend the garden of a dwelling in the rural area, and is relevant to this application. It states that this will only be permitted where (1) the proposal would not result in significant harm to the landscape, and (2) a scheme of landscaping is provided and implemented that will, as required, conserve, create or restore the character of the landscape concerned. The supporting text to the policy makes clear that in cases approved by the Council, a planning condition would normally be imposed to remove permitted development rights for garden buildings and other domestic works, to protect the landscape from further harm. On this basis, the application is not supported under this policy as it has been used to construct a large detached building and includes no landscaping proposals. Furthermore, the contrived nature of the extension into the land to the north does not assimilate the development in an acceptable way into the countryside. Finally, although not explicitly referred to in the policy, it appears to me that an extension of garden land into the countryside has greater merit when an existing garden is small or substandard in some way or form, which is not the case with this site where the property enjoys a large garden area.
- 7.6 In terms of landscape impact, the site is not within a designated landscape. The Swale Landscape Character and Biodiversity Appraisal SPD identifies the site within the Minster and Warden farmlands, characterised by rolling topography, high points within the Island, long views across the Island to the mainland and of the Thames Estuary and mixed land uses. The condition is described as poor, partially due to urban fringe activities and residential development, and sensitivity is moderate. The guidelines seek to restore and create new landscape features. In my opinion, although it would be on a modest scale, the encroachment of the garage as built into the agricultural land to the rear of the plot adds to the poor condition and brings no benefits to the landscape. It pushes built form beyond the permitted residential boundary of the application property and neighbouring dwellings into an open exposed field. As such I consider the scheme would be in conflict with policies DM13 and DM24 of the local plan.
- 7.7 The land is designated as Grade 2 agricultural land and as such represents Best and Most Versatile agricultural land. Policy DM 31 sets out 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. In this instance, there is no supporting information which justifies the relocation of the garage block onto good quality agricultural land when it is clear from the size of the permitted garden and from the previously permitted scheme that there is sufficient space for this to be located within the residential curtilage. However, I am also mindful that the area of land that would be removed from potential agricultural use is very small. On this basis and on balance, I do not consider that the loss of this small parcel of land could be held to be sufficiently harmful to justify refusal on this particular ground.

Impact upon residential amenity

- 7.8 Policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or

sunlight, in an unreasonable loss of privacy, in an unreasonable loss of outlook or in excessive noise or odour pollution.

- 7.9 In this regard, a garage in the established garden area was generally considered acceptable under the permission granted in 2019. On the basis that any increase in scale is relatively minor when considered against the bulk of development proposed, and that the new garage would be located approximately 32m from Appleyard Barn, I do not consider that there would be any material harm to neighbouring amenities arising from the garage.

#### Highways/Parking

- 7.10 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with Kent County Council vehicle parking standards
- 7.11 The size of the garage block is consistent with the Swale Borough Parking SPD 2020 and the proposal provides an acceptable parking facility for vehicles. I have no concerns in this regard.

### **8. CONCLUSION**

- 8.1 For the reasons set out above, encroachment into the countryside would be directly contrary to policy ST3 which states, at point 5, that at locations outside the built-up boundaries shown on the Proposals Map development will not be permitted, unless able to demonstrate that it would contribute to protecting the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities which has not been satisfactorily demonstrated under this application. Furthermore the scheme does not comply with Policy DM13 as the extension of the garden has been carried out in a contrived way to facilitate the erection of a large building and contains no landscaping on measures that mitigate this impact.

### **9. RECOMMENDATION**

That planning permission be REFUSED for the following reason:

- (1) The application site lies outside of any built-up area boundary and within the open countryside. The extension of the residential garden into the countryside and erection of a garage building of large scale and form beyond the confines of the existing residential curtilage results in an unacceptable form of encroachment into the open and undeveloped rural landscape, a contrived and unnatural boundary line between the residential curtilage of the property and the countryside, and overtly domestication and presence of built form on the land, with a subsequent harmful impact upon the character and appearance of the countryside. In addition, the proposal lacks any appropriate landscaping scheme or measures to assimilate the development into the landscape. For these reasons, the proposal fails to enhance the intrinsic value, landscape setting, tranquillity and beauty of the countryside contrary to policies ST3, DM13 and DM24 of Bearing Fruits 2031 – The Swale Borough Local Plan (2017).

### **The Council's approach to the application**

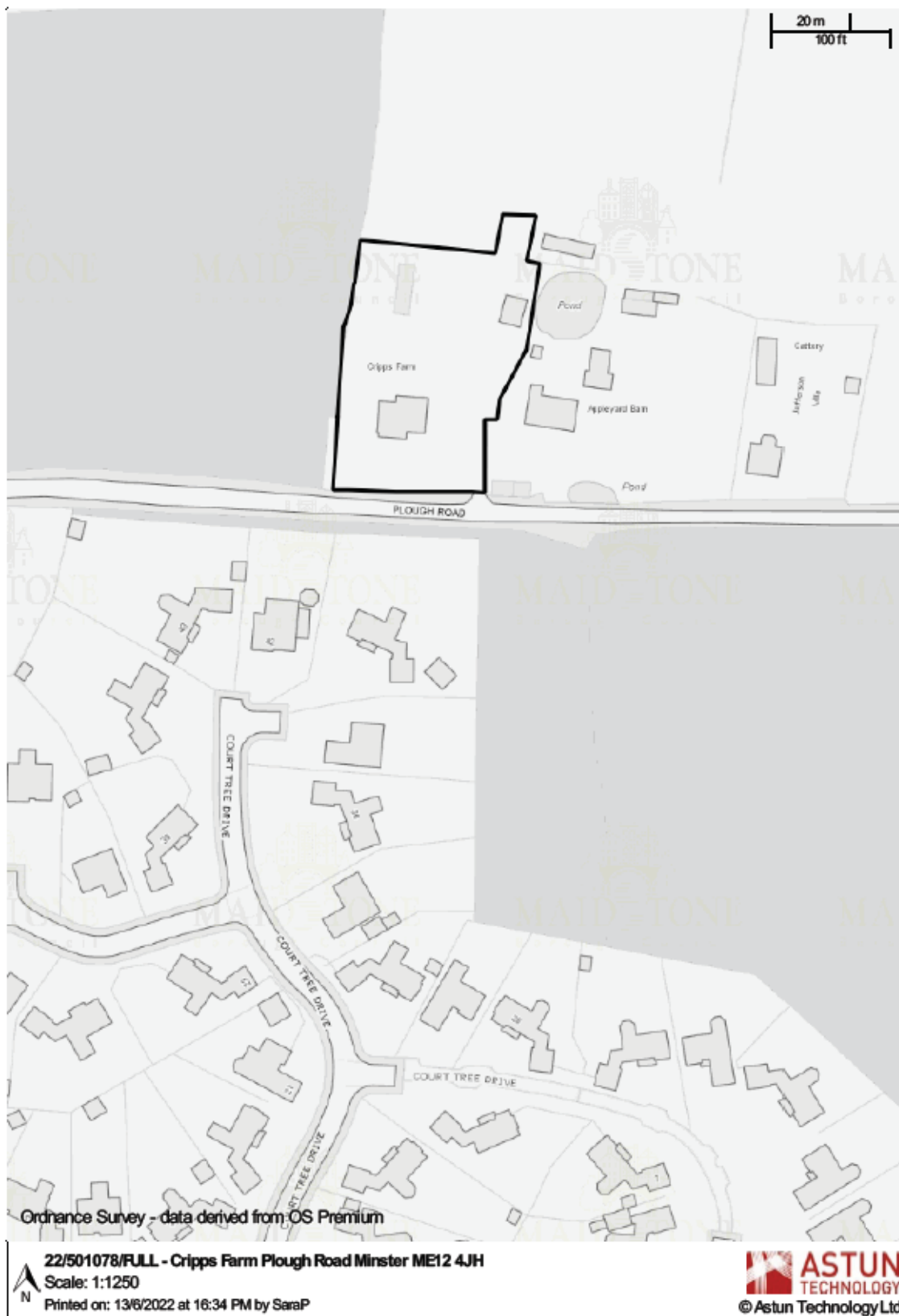
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where 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.



**PLANNING COMMITTEE – 23 JUNE 2022**

**PART 5**

Report of the Head of Planning

**PART 5**

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

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- **Item 5.1 – 11 Challenger Close, Sittingbourne**

**APPEAL DISMISSED**

**DELEGATED REFUSAL**

**Observations**

This decision relates to an application for a lawful development certificate. The Inspector supported the Council's case that a planning condition restricted use of the garage for purposes other than car parking – and that conversion of the garage to habitable space requires planning permission.

- **Item 5.2 – Iris Cottage, Elmley Road, Minster**

**APPEAL DISMISSED**

**DELEGATED REFUSAL**

**Observations**

An unusual decision. This was also an appeal seeking a lawful development certificate for occupation of a dwelling without compliance with an agricultural occupancy condition. The Inspector noted that the dwelling had been constructed long after the planning permission had expired, and that on this basis he could not conclude that a breach of the condition was lawful, if that condition had died with the planning permission. The appeal was dismissed on this basis.

- **Item 5.3 – Kemsdale Stud Farm, Kemsdale Road, Hernhill, Faversham**

**APPEAL DISMISSED**

**DELEGATED REFUSAL**

**Observations**

This appeal relates to the removal of an occupancy condition restricting the occupancy of the dwelling to the management of the stud farm use of the site. The inspector concluded that in the absence of any significant evidence to show the level of demand for the dwelling tied with the stud farm, it would not be appropriate to remove the restrictive occupancy condition. The inspector considered that such an unrestricted open market dwelling would create a harmful piecemeal erosion of the countryside contrary to Local Plan policies and paragraph 80 of the NPPF.

- **Item 5.4 – New Acres Spade Lane Hartlip**

**APPEAL A ALLOWED**

**APPEAL B DISMISSED AND COSTS REFUSED**

**DELEGATED REFUSAL**

**Observations**

A disappointing decision on a high-profile case. The Inspector agreed that the site was significantly harmful in planning terms. However he gave significant weight to the lack of a five year supply of Gypsy sites and the lack of alternative sites available. As a consequence, and due to concern that the outcome of the appeal could leave the occupants homeless in conflict with human rights and the best interests of children, he granted a temporary permission for a further period of 3 years.

Although Appeal B was dismissed, this related to an appeal against refusal of details relating to a planning condition attached to the previous temporary permission granted by PINS at the site. By the time the appeal was heard, the temporary permission had expired, as had the condition in question. On technical grounds the appeal was dismissed on this basis. Although the Council sought costs on the basis that the appeal served no useful purpose and was made on legal principles rather than planning arguments, the Inspector did not consider the submissions amounted to unreasonable behaviour and refused the application for costs.



The Planning Inspectorate

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## Appeal Decision

Site visit made on 12 April 2022

by **Timothy C King BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 April 2022

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**Appeal Ref: APP/V2255/X/21/3277311**

**11 Challenger Close, Sittingbourne, Kent ME10 2HZ**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Ian Ludlow against the decision of Swale Borough Council.
  - The application Ref 21/502090/LAWPRO, dated 16 April 2021, was refused by notice dated 17 June 2021.
  - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
  - The development for which a certificate of lawful use or development is sought is described as '*Convert garage into a habitable room*'.
- 

### Decision

1. The appeal is dismissed.

### Background

2. The Council has indicated that the conversion of domestic garages to habitable floorspace within the wider housing development of which the appeal dwelling forms part is prohibited by planning permission ref SW/79/0743, granted in 1979. Condition 3 thereto requires that areas shown as car parking space shall be retained thereafter.
3. Notwithstanding the terms and conditions of the above planning permission the Council subsequently granted planning permission in August 2014 under ref 14/500415/FULL for the said garage's conversion into a study and downstairs w/c. However, it appears that this permission was not implemented within the required three year period.
4. This is confirmed by the form submitted with the LDC application dated 16 April 2021 which specifically states that the approved development had not yet been started. In effect the said planning permission had expired unimplemented on 18 August 2017.
5. The relevant date for the determination of lawfulness is the date of the LDC application, i.e. 16 April 2021. The matter to be decided upon is whether the development, if carried out at that date, would have been lawful.
6. In an appeal under s195 of the Act against the refusal of a LDC the planning merits of the matter applied for do not fall to be considered. The decision is based strictly on the evidential facts and on relevant planning law. The burden of proof is on the appellant, and is on the balance of probabilities.

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Appeal Decision APP/V2255/X/21/3277311

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**Main Issue**

7. The main issue in this appeal is whether the Council's decision to refuse the LDC was well founded.

**Reasons**

8. An insert on the LDC application form, asking why the garage conversion is lawful, indicates that it is permitted development. However, this is incorrect given the relevant condition attached to the 1979 application which remains in effect and was imposed to retain all associated parking space.
9. I acknowledge the appellant's representations that notwithstanding the garage's conversion there still remains two car parking spaces on the dwelling's front driveway. As mentioned, though, the planning merits and/or impacts of the development are not relevant to this particular type of application and I am not able to take such matters into account. These would only become considerations in the event of an application for planning permission being submitted.
10. For the above reasons given above I conclude, on the evidence available, that the Council's refusal to grant a certificate of lawful use or development in respect of the garage conversion at 11 Challenger Close, Sittingbourne, Kent ME10 2HZ was well founded and the appeal must fail. Accordingly, I will exercise the powers transferred to me under section 195(3) of the 1990 Act as amended.

*Timothy C King*

INSPECTOR





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## Appeal Decision

Site visit made on 12 April 2022

by **Timothy C King BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 April 2022

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**Appeal Ref: APP/V2255/X/21/3286405**

**Iris Cottage, Elmley Road, Minster-On-Sea, Sheerness ME12 3SS**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development ("LDC").
  - The appeal is made by Mr Sid Beaney against Swale Borough Council.
  - The application Ref 21/503050/LDCEX is dated 1 June 2021
  - The application was made under section 191(1)(c) of the Town and Country Planning Act 1990 as amended.
  - The development for which a certificate of lawful use or development is sought is described as '*The occupancy of the existing dwelling in breach of Condition 4 of planning permission SW/90/12, by persons not employed or last employed in agriculture or forestry*'.
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### Decision

1. The appeal is dismissed.

### Background

2. The appeal relates to a single-storey detached dwellinghouse, approved by way of a planning permission granted in 1990, which was subject to an agricultural occupancy condition. The indication given is that the requirements of the condition have been contravened.
3. In an appeal under s195 of the Act against the refusal of a LDC the burden of proof is upon the appellant. The test of the evidence would need to show that any breach had continued since 1 June 2011. This would be the 'material date', being ten years prior to the date of the LDC application, and the burden of proof is one of balance of probability. As such, the planning merits of the development applied for do not fall to be considered. Instead, the decision will be based strictly on the evidential facts and on relevant planning law.

### Main Issue

4. The main issue in this appeal is whether the dwelling approved under planning permission SW/90/0012 has been occupied without compliance with the requirements of condition 4 thereto, such that, on the balance of probability, the use was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 as amended.

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Appeal Decision APP/V2255/X/21/3286405

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### Reasons

5. Paragraph 3 of s171B of the 1990 Act indicates that, in the case of a breach of planning control such as here, where there is understood to have been a failure to comply with a condition imposed on a planning permission granted, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
6. S191(2) goes on to say that uses and operations are lawful at any time if (a) no enforcement action may then be taken in respect of them because the time limit for enforcement action has expired, and they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
7. The appellant has produced two statutory declarations (SD) to indicate that the dwelling at issue has been occupied and used for residential purposes since 2004, and the occupants have not been *'solely or mainly employed, or last employed in agriculture'* as the condition required. Paragraph 13 of Mrs Alma Driver's SD, in referring to the dwelling granted planning permission in 1990 by the Council, states:  
  
*"My daughter Sudi inherited control of Flynn's Bee Farms Ltd in 2004 and, with her husband Chris Austin, they commenced building the dwelling which is now known as Iris Cottage on the Company premises at Double J Farm."*
8. I have not been presented with a copy of the 1990 planning permission and am therefore not sure of the actual date of the decision notice. Notwithstanding this, though, from their representations both main parties agree its relevance as being the definitive document. Back in 1990 the standard time limit condition required that the permission granted be implemented within five years of the date of the decision notice and, as such, the approved works would have needed to commence no later than some point in 1995. However, save for the indication from the paragraph quoted above no clarifying documentary evidence to this end has been given by either side. As such, from the evidence available to me, I have no reason to conclude other than by the time building works commenced in or around 2004 planning permission ref SW/90/0012 had already expired, unimplemented.
9. Accordingly, the construction works undertaken would have been unauthorised and, at the time, would have been likely subject to potential enforcement action. It appears, though, from the Council's evidence, that no investigations in this regard were initiated by the Council. Indeed, in its letter dated 13 January 2022, no information is given as to Iris Cottage other than reference to the 1990 permission and comments on the content of the SDs submitted in support of the appeal.
10. Given my findings, based on the evidence before me, the condition cannot have been breached as there would not have been any extant permission to implement when the construction works began. The condition would have previously died with the planning permission. It appears, though, that the dwelling was built regardless and has been effectively occupied since, being sold in 2017 to Mr Beaney, the appellant.

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11. The appeal is therefore superfluous as the fundamental issue here is whether or not the dwelling itself is lawful given the passage of time. However, as my remit in this appeal is limited only to whether the requirements of condition 4 were observed it is not for me to make an assessment beyond this and conclude as to whether the dwelling might enjoy immunity from planning control. That must remain a matter between the two main parties.
12. For the reasons given above I conclude, on the evidence available, that the occupancy of the dwelling relating to the requirements of condition 4 of planning permission SW/90/0012 was not lawful on 1 June 2021 within the meaning of section 191(2) of the Town and Country Planning Act 1990 as amended.
13. Accordingly, I will exercise my powers under section 195(3) of the Act.

*Timothy C King*

INSPECTOR

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## Appeal Decision

Hearing held on 26 April 2022

Site visit made on 26 April 2022

by **Nicola Davies BA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 May 2022

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**Appeal Ref: APP/V2255/W/21/3268113**

**Kemsdale Stud Farm, Kemsdale Road, Hernhill, Faversham, ME13 9JL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mrs Vanessa Leak against the decision of Swale Borough Council.
  - The application Ref 20/504495/FULL, dated 25 September 2020, was refused by notice dated 24 November 2020.
  - The application sought planning permission for a dwelling without complying with a condition attached to planning permission Ref SW/00/1180, dated 18 June 2002.
  - The condition in dispute is No 6 which states that: Occupation of the dwelling hereby permitted shall be restricted to persons involved in the management of the stud farm at the site, and to dependants of such persons.
  - The reason given for the condition is: As the site lies outside any area where new residential accommodation would normally be permitted, and because it is only permitted in recognition of the functional need arising from the welfare of horses kept at the site, and in pursuance of Policies ENV1 and RS5 of the Kent Structure Plan and E11 of the Swale Borough Local Plan.
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### 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. With relation to the Council's decision notice an updated Framework paragraph number was agreed at the hearing. I have had regard to the revised Framework in reaching my decision.

### Main Issue

3. The main issue is whether or not it is appropriate to remove condition 6 that restricts occupancy of the dwelling to the stud farm use of the site.

### Reasons

4. The dwelling at Kemsdale Stud Farm is located within the countryside. It sits within a site of approximately 6 acres. The site hosts a dwelling, domestic garage, stable, barn, other outbuildings, manege, paddocks and grass land.
5. Planning permission was granted in 1997 for stables and living accommodation to form a stud farm. The area is not one where new housing would normally

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be permitted. However, the Council recognised the need to live on site to support a business that demanded a rural location.

6. A permanent dwelling was granted in 2002 to replace the earlier temporary dwelling at the site under planning reference SW/00/1180. That permission was subject to condition 6 that restricted those occupying the dwelling to be individuals involved in management of the stud farm and to the dependants of such persons. The condition was imposed in recognition of the special circumstances that existed, as set out in the reason given for the condition at the last bullet point within the banner heading above. That permission was accompanied by an associated Section 106 Legal Agreement (LA) that tied ownership of the house to the ownership of the land comprising the stud farm.
7. Since the end of 2006 there has been no stud farm activity at the site and the dwelling has been occupied in breach of condition 6. In 2020 a Lawful Development Certificate (LDC) was granted as the Council accepted that Mr and Mrs Leak had occupied the dwelling in breach of condition 6 for a period of 10 years. The appellant is seeking to remove condition 6 on the basis that the LDC has established that it is no longer necessary, reasonable or enforceable.
8. The appellant has submitted that the occupancy condition significantly reduces the appeal property's value. Equus are specialist equestrian agents and over a 2-year period they have been unable to find a buyer. The feedback from Equus suggests that the LA restriction is impacting upon the sale. With the LDC in place this would increase the value of the property. Nonetheless, the sale and occupation would result in a breach of the LDC as the condition would be reactivated and this would immediately reduce the value of the dwelling. Given all of this, it is contended that it is extremely unlikely that someone would purchase the property as the value of the property and the limited land available is highly unlikely to attract a purchaser who will comply with the precise terms of the condition.
9. It is also suggested that interest in the site is further reduced due to the limited size of the associated stud farm and the fact that there is no operational stud farm business taking place. Although the appellants no longer run a stud farm from what I saw at my visit there does not appear to be an inherent unsuitability of the site to run as a stud farm. The planning permission, along with the stables, paddocks and grass land at the site still exist.
10. The appellant advised at the hearing that the stud farm ran at a loss and that was when 38 acres of other land nearby was rented and being utilised in association with the stud farm. That rented land is no longer available. The 6 acres of grazing paddock at the site is not enough to run a viable stud farm as it would not be possible to rotate any grazing. It is not good for horses to be stabled for long periods of time, particularly those with foals that need exercise and to be socialise for their wellbeing and future development. Without these facilities feed costs and additional labour would have an economic impact. There is no longer access to a rented site that provided access to stabling for livery when breeding. These factors would be the same for anyone taking on the stud farm.
11. The applicant stopped running the stud farm due to ill health, not for any financial or practical reasons. From my visit I saw that the surrounding land hosted either polytunnels for fruit farming or equestrian activity. However, the appellant set up the stud farm and the reasons it stopped running is not one

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that clearly indicates that it would prevent it from resuming or that other equestrian land within the area would not be available for rent associated to the stud farm use. There is no detailed marketing evidence to illustrate how the property has been marketed or evidence that the advertised value of the property was realistic. Consequently, I cannot be certain that the dwelling could not be attractive or affordable to those on an equestrian income.

12. The stud farm use is in abeyance due to the personal circumstances of the appellant. The land relating to the stud farm remains associated with the dwelling. Mrs Leak indicated that she has no intention of moving, therefore the value of the property would make no difference to the appellant's current situation.
13. The dwelling was granted planning permission only on the basis of need associated with the stud farm. The stud farm business is redundant. As such, it is contended that the condition no longer serves any practical planning purposes as the stud farm no longer exists. However, the condition was imposed to make the development acceptable in planning terms. The Council's rural restraint policies at that time are still relevant presently. The removal of the occupancy condition could leave the Council in the position of having to approve further dwellings in the countryside, rather than make use of the existing dwelling that supports the use of the land. The location is such that a dwelling with unrestricted occupation would be unacceptable and be contrary to development plan policy. Therefore, the condition remains necessary.
14. The appellant is currently immune from enforcement action due to the LDC. If she were to resume stud farm activities at the site, then condition 6 would once again be enforceable. Furthermore, if the appellant no longer occupied the dwelling, its original use that was subject of condition 6 and the LA would still apply, and any breach of the occupancy condition would be enforceable.
15. The effect of removing the condition would be to permit an unrestricted open market dwelling in the countryside that would be unacceptable as it would be contrary to development plan policies. The stud farm planning permission has not been abandoned. The LA ties the dwelling with the land. The house was required for the supervision and success of the business at the site. The functional need for the condition has not disappeared. I am not persuaded that there is no potential for the use to resume. The current lawful breach does not mean that the condition does not fulfil a meaningful purpose in planning terms or justifies its removal. It is suggested that the dwelling would be more likely to be occupied by a stud farm worker if the restriction were removed as the LA serves to tie the dwelling with the land holding. However, I see no substantive reason why this would be so.
16. The existing wording of condition 6 has also been criticised for being unduly restrictive and not reasonable as it would prevent occupation by retired workers or occupation by workers at other stud farms or those employed in agriculture. Whilst the condition could be varied to make it less restrictive, the proposal before me seeks the removal of condition 6 rather than its rewording.
17. I conclude that in the absence of any substantive evidence to demonstrate the level of demand for the dwelling tied with the stud farm, it would not be appropriate to remove condition 6 that places a restriction on the occupancy. The dwelling supports the stud farm use of the rural land. An unrestricted open market dwelling would create a harmful piecemeal erosion of the

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countryside. The proposal would, therefore, be contrary to Policies ST3, DM12, DM14 and DM24 of the Swale Borough Local Plan 2017 and paragraph 80 of the Framework which collectively seek to avoid the development of isolated homes in the countryside and that seek to conserve and enhance valued landscapes and the vitality of rural communities.

**Other Matters**

18. I have had regard to the evidence submitted relating to other planning applications where agricultural occupancy conditions have been removed pertaining to different administrative areas. The proposal before me differs in that it relates to an equestrian occupancy. It can and should be considered on its own merits.

**Conclusion**

19. For the reasons set out above the appeal is dismissed.

*Nicola Davies*

INSPECTOR



Appeal Decision APP/V2255/W/21/3268113

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**APPEARANCES**

FOR THE APPELLANT:

Jonathan Lee, Hobbs Parker

Vanessa Leak, appellant

Sean Leak

FOR THE LOCAL PLANNING AUTHORITY:

Graham Thomas, Swale Borough Council

Claire Attaway, Swale Borough Council

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## Appeal Decisions

Hearing Held on 27 April 2022

Site visit made on 27 April 2022

by **Tim Wood BA(Hons) BTP MRTPI**

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

Decision date: 8<sup>th</sup> June 2022

### **Appeal A: APP/V2255/W/20/3254539 New Acres, Spade Lane, Hartlip, Kent ME9 7TT**

- 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 Frank Mongen and others against the decision of Swale Borough Council.
- The application Ref 19/503694/FULL, dated 18 July 2019, was refused by notice dated 21 May 2020.
- The development proposed is the change of use of land for an 8 pitch gypsy and traveller site with facilitating development.

### **Appeal B: APP/V2255/W/20/3244340 New Acres, Spade Lane, Hartlip, Kent ME9 7TT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by S, M and P Maughan and others against the decision of Swale Borough Council.
- The application Ref 18/501667/FULL, dated 26 March 2018, was refused by notice dated 12 December 2019.
- The application sought planning permission for change of use of the land from agriculture to use as a residential traveller site (caravan site) comprising eight pitches with associated hardstanding, together with an access road without complying with a condition attached to planning permission Ref: APP/V2255/C/16/3165246, dated 31 October 2017.
- The condition in dispute is No 4 which states that: *"The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below: i) within 3 months of the date of this decision a scheme, hereafter referred to as the Site Development Scheme, shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation. The Site Development Scheme shall include details of: alterations to the site access in line with the details submitted with planning application Ref. SW/13/1485; the internal layout of the site, including the siting of caravans; areas for vehicular access and turning and manoeuvring; proposed and existing external lighting on the boundary of and within the site; the means of foul and surface water drainage or disposal; areas of hardstanding; fencing and other means of enclosure; hard and soft landscaping including details of species, plant sizes and proposed numbers and densities; and details of the condition of the land before the development took place and the works necessary to restore the land to that condition, or some other state as agreed with the local planning authority, and the time period within which the restoration works must be undertaken, ii) within 6*

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*months of the date of this decision the Site Development Scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State. iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Site Development Scheme shall have been approved by the Secretary of State. iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable, and works comprised in the scheme shall be thereafter retained for the duration of the development."*

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## Decisions

### Appeal A

1. The appeal is allowed and planning permission is granted for the change of use of land for an 8 pitch gypsy and traveller site with facilitating development at New Acres, Spade Lane, Hartlip, Kent ME9 7TT in accordance with the terms of the application, Ref 19/503694/FULL, dated 18 July 2019, and the plans submitted with it, subject to the conditions set out in Schedule 1 of this decision.

### Appeal B

2. The appeal is dismissed.

### Application for costs

3. At the Hearing an application for costs was made by the Council against the appellants in relation to Appeal B only. This application is the subject of a separate Decision.

### Preliminary Matters

4. In relation to Appeal A, the Council's objections to the development relating to the effects on the Special Protection Area have been met by the appellants paying the necessary mitigation contribution.
5. In relation to Appeal B, after a short discussion at the Hearing, it was agreed by the Council and the appellant that the original permission had now expired and that, in those circumstances, there was no option but to dismiss the appeal. Although the appellant expressed some wish for the merits of the case to be debated, it was accepted that this would not be necessary if the appeal were to be dismissed.

### Main Issues

6. The main issues in these appeals are:

#### Appeal A

- The effects of the proposal on the character and appearance of the area
- Whether there would be an unacceptable loss of Best and Most Versatile agricultural land.

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## **Reasons**

### ***The effects of the proposal on the character and appearance of the area***

7. The appeal site is within a flat area of land bounded by the A2 to the north and Spade Lane, South Bush Lane and Meresborough Lane. The great majority of the land is open and free from buildings and structures. Spade Lane contains a few dispersed houses on its eastern side, South Bush Lane has sporadic housing on both sides. More significant development exists adjacent to the A2 including a car business and a storage facility. Notwithstanding the presence of the development along the A2, the other roads are rural in nature, being generally single-track and surrounded by open land. Some hedgerows exist but these allow for open views across the land. I assess the character and appearance of the area as being strongly rural.
8. The appeal site is occupied as a Gypsy and Traveller site with attendant features. Its access is taken from Spade Lane and the site extends for some considerable depth towards South Bush Lane. The site is highly visible from the surrounding area, including from the public footpath which runs across the open land to the north. Within the predominantly open and rural landscape, the existing site appears prominent and discordant. It was suggested by the appellant that landscaping of the site could soften its appearance. In my view, any landscaping that would achieve this would be so significant that it would, in itself, appear incongruous within the area and contrary to the advice in the PPTS at paragraph 26.
9. I consider that the alterations proposed as part of the appeal, compared to the current layout, would have little effect on the overall impact of the development of the site on the surrounding area. It would appear significantly out of place, unacceptably urbanising and in conflict with Policies ST3, DM10 and DM14 of the Swale Borough Local Plan 2017 (LP).

### ***Agricultural Land***

10. The development of the site has resulted in the loss of an area of land of the Best and Most Versatile (BMV) category, within its highest grade. The National Planning Policy Framework states that, when considering such issues, any economic and other loss must be taken into account. Submissions at the Hearing indicate that around 70% of farmed land with Swale Borough is BMV and the majority of non-BMV land is within the Kent Downs AONB and the Isle of Sheppey and so constraints to development exist. This would seem to support the appellants' suggestion that it would be very difficult to locate non-BMV land for the use proposed. However, I am mindful that no specific evidence is submitted of the appellants' search for alternative sites. In this instance, I attach moderate weight against the appeal in relation to the loss of BMV.

## **Other Matters**

### ***The need for and provision of sites***

11. The Council indicates that, at the time of the adoption of the LP in 2017, the Council's GTAA suggested a Gypsy and Traveller pitch requirement of 61 over the Plan period, to 2031. Of those, 59 pitches had already been granted permanent planning permission, leaving an outstanding balance of 2 pitches up to the year 2031. As a result, no formal pitch allocations were included within

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the Plan. Accordingly, a 'windfall' approach was taken and is embodied in Policy DM10 of the LP. The Council indicates that this means that the 5-year supply requirement is of limited relevance within the Borough and that any shortfall in relation to it should carry only limited weight.

12. However, the Planning Policy for Traveller Sites (PPTS) states that local planning authorities should identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites. In relation to the 5-year supply, the Council indicates that they are able to demonstrate 3.5 years supply. However, and notwithstanding disagreement between the appellants and the Council, the delivery of sites through the Council's windfall approach does seem to be providing sites in excess of the GTAA identified need. Therefore, I see the Council's inability to demonstrate a 5 years supply of sites as counting in favour of the appeal but this is tempered somewhat by the factors set out above.

#### ***Personal Circumstances***

13. The appeal site is occupied by individual families who are generally part of a wider family group, including 24 children at present. I have been made aware that a number of the adults have health problems and that they would benefit from a stable base from which to access health services. A number of the children are said to attend education establishments locally and I have no doubt that moving from the site could significantly disrupt stable access to schooling. The PPTS sets out as part of the Governments aims to provide suitable accommodation from which travellers can access education and health services. I attach considerable weight to the harmful effects that would arise from the need to vacate the appeal site without the provision of any alternative sites being available.

#### **Balance and Conclusion**

14. I have taken account of my duty, in determining this appeal, placed on me by the Public Sector Equality Duty. I have also considered the best interests of the children resident at the appeal site, as a primary consideration. In relation to the environmental effects of the appeal, the development has a significantly harmful effect on the character and appearance of this rural area and has involved the loss of BMV. I give significant weight to this harm and attribute further moderate harm to the deliberate unauthorised nature of the development.
15. In favour of the appeal, the Council is unable to demonstrate a 5 years supply of sites, no alternative sites have been identified. The personal circumstances of the appellants and the best interests of the resident children would be significantly harmed by the need to leave the site. I give these matters significant weight as the consequence of dismissing the appeal would be that the residents would become homeless.
16. In balancing these considerations, I find that the harm is not outweighed by the factors in favour of the appeal and that permanent planning permission should not be granted. The PPTS states that in circumstances where a local planning authority cannot demonstrate an up to date 5 year supply of sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. Taking this into account, along with all other matters, I find that

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the factors in favour of a temporary permission, with its time-limited effects, means that temporary planning permission is justified in this case. I consider that a temporary permission of 3 years would be an acceptable time period and would enable the residents and the local situation to gain an opportunity for alternative sites. Such a restriction would represent an interference with the right of the occupants, under the Human Rights Act but I am satisfied that it is necessary, proportionate and justified.

#### Conditions

17. I have taken account of the advice in the National Planning Policy Framework and the Planning Practice Guidance in relation to the use of conditions. In view of the particular considerations of the appeal, it is necessary to restrict future occupiers of the site to gypsies and travellers. As discussed above, the permission is for a temporary period of 3 years and I shall include a condition to that effect and which requires all items to be removed from the site the site to be restored at the end of that time.
18. I shall impose a condition for a Site Development Scheme to be submitted, approved and adhered to which includes measures relating to access, site layout, positioning of caravans, utility buildings/day-rooms, fencing, hard-standings, parking, amenity areas, lighting, surface water and foul sewage disposal, landscaping and boundary treatment and a scheme for the restoration of the site, so that the character of the area and highway safety is not prejudiced. I shall also include conditions which limit the number of pitches, prevents any commercial activities and controls the keeping of commercial vehicles at the site, for the same reasons. I have found that the personal circumstances of the appellants have contributed to allowing the appeal but they are not so exceptional as to require a personal permission to be imposed. I have taken account of the Council's representations about the inclusion of dayrooms/utility buildings and I note the conclusions reached in determining the previous appeals at the site, when an appeal including large buildings was dismissed. In my judgement such facilities are necessary for such a site but their ultimate size, number and appearance could be resolved through the Site Development Scheme, without compromising the character of the area.
19. As a result of my conclusions in relation to Appeal A, the appeal is successful and temporary planning permission is granted.

*T Wood*

INSPECTOR

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### **SCHEDULE 1: CONDITIONS**

1. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
2. The use hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.
3. There shall be no more than 8 pitches on the site and on each of the 8 pitches hereby approved no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time, of which no more than 1 caravan shall be a static caravan.
4. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
  - i) within 3 months of the date of this decision a scheme, hereafter referred to as the Site Development Scheme, shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation. The Site Development Scheme shall include details of: alterations to the site access in line with the details submitted with planning application; the internal layout of the site, including the siting of caravans; details of the proposed day-rooms/utility blocks (notwithstanding indications on the submitted drawings); areas for vehicular access and turning and manoeuvring; proposed and existing external lighting on the boundary of and within the site; the means of foul and surface water drainage or disposal; areas of hardstanding; fencing and other means of enclosure; hard and soft landscaping including details of species, plant sizes and proposed numbers and densities; and details of the condition of the land before the development took place and the works necessary to restore the land to that condition, or some other state as agreed with the local planning authority, and the time period within which the restoration works must be undertaken,
  - ii) within 6 months of the date of this decision the Site Development Scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Site Development Scheme shall have been approved by the Secretary of State.
  - iv) the approved scheme shall have been carried out and completed in

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accordance with the approved timetable, and works comprised in the scheme shall be thereafter retained for the duration of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

5. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.

6. No commercial activities shall take place on the land, including the storage of materials.



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## Costs Decision

Hearing Held on 27 April 2022

Site visit made on 26 April 2022

**by Tim Wood BA(Hons) BTP MRTPI**

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

Decision date: 8<sup>th</sup> June 2022

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### **Costs application in relation to Appeal Ref: APP/V2255/W/20/3244340 New Acres, Spade Lane, Hartlip ME9 7TT**

- 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 Swale Borough Council for a full award of costs against S, M and P Maughan and others.
  - The hearing was in connection with an appeal against the refusal of an application seeking to vary a condition attached to a planning permission.
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### **Decision**

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

### **The submissions for the Council**

2. The Council's submissions were made in writing prior to the Hearing and were not added to at the Hearing

### **The response by the appellants**

3. The appellants' response was made in writing prior to the Hearing and was not added to at the Hearing.

### **Reasons**

4. The national Planning Practice Guidance (PPG) states that parties will normally be expected to meet their own costs in relation to appeals and costs may only 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.
5. The original temporary planning permission was granted by means of an appeal (Ref: APP/ V2255/C/16/3165246) granted on 31 October 2017, as set out in my main decision and running for 3 years. Condition 4 required certain actions within 3 months of the decision date. The Council challenged the appeal decision and the appellants decided to hold-off taking any action pursuant to its requirements in order to await the outcome of the challenge. However, during that process, the Council indicated to the appellant that the 3 months compliance period for condition 4 had expired, contrary to the appellants' understanding that matters would be on hold during the legal process. Without accepting the Council's position, the appellants submitted an application to vary the time limit of condition 4 so that suitable details could be submitted and

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resolved. The application was made in March 2018. The Council held off determining the application while the legal challenge to the original decision was on-going. Once that was resolved in January 2019, the Council reported the application to its relevant committee with an officer recommendation for approval. The Council resolved to refuse the application at its committee meeting on 7 March 2019. After some delay, the Council issued a decision notice dated 17 May 2019, indicating that planning permission was granted. Eventually, this error was rectified by the Council seeking to quash its own decision notice. On 27 November 2019, the decision notice was quashed and on 12 December 2019, the Council issued a corrected decision notice refusing the application; this is the subject of this appeal. The appeal was made on 7 January 2020.

6. The Council has indicated that the appellants' benefit from a successful appeal would have been limited in time, due to the expiry of the 3 year permission on 30 October 2020. The appellant has indicated that they had requested that the appeal be determined by the written method in the hope of a swift decision. Unfortunately, for numerous reasons, none of which are the fault of the appellants, including the Covid 19 pandemic, matters did become protracted. However, at the time that the appeal was made, there may have been some realistic hope on the appellants' part that planning permission could be granted and that some benefit may arise from any approval. I understand the appellants stated position that their interests would be maintained if an appeal were to have been successful. In this respect, and notwithstanding the eventual outcome of the appeal, I do not consider that the appellants were unreasonable in exercising their option to appeal against the Council's decision.
7. The appellants had also hoped that some matters of principal would be resolved in the determination of the appeal; including whether matters should be put on hold if a decision is the subject of a challenge. If an appeal had been determined, this would not be an unreasonable hope, in my view. The Council states that this is not the purpose of the appeal process. Whilst it may not be the primary purpose, there are numerous examples of clarity of law and process being provided by appeal decisions as a consequence of the main purpose of determining planning appeals.
8. The Council also comments that the 3 propositions set out by the appellants in their statement are irrelevant and amount to unreasonable behaviour. I consider these as additional arguments for the appellants' case which seek to add strength to comments already made. They provide some background and the appellants views on certain matters. Whilst the Council do not agree with them, they are nevertheless appropriate submissions for this appeal.
9. For the reasons set out above, I find that the appellants have not acted unreasonably in their submission of the appeal and in the contents of their case. Therefore, the conditions necessary for the award of costs has not been satisfied.

*T Wood*

INSPECTOR

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