

## AGENDA

### PLANNING COMMITTEE MEETING

Date: Thursday, 9 February 2023

Time: 7.00 pm

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

Membership:

Councillors Monique Bonney, Richard Darby, Steve Davey, Mike Dendor, Oliver Eakin, Tim Gibson (Chair), James Hall, Mike Henderson, James Hunt, 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 about this meeting

\*Members of the press and public can listen to this meeting live. Details of how to join the meeting will be added to the website by 8 February 2023.

#### Recording and Privacy Notice

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This meeting may be recorded. The recording will be retained in accordance with the Council's data retention policy and may be published on the Council's website. By entering the chamber and by speaking at a meeting, whether in person or online, you are consenting to being recorded and to the recording being published.

When joining a meeting online, your username will be visible to others in attendance. In joining the meeting you are consenting to us processing your username. You may use a pseudonym as your username but the use of an inappropriate name may lead to removal from the meeting.

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#### 1. Emergency Evacuation Procedure

Visitors and members of the public who are unfamiliar with the building and procedures are advised that:

- (a) The fire alarm is a continuous loud ringing. In the event that a fire drill is planned during the meeting, the Chair will advise of this.
  - (b) Exit routes from the chamber are located on each side of the room, one directly to a fire escape, the other to the stairs opposite the lifts.
  - (c) In the event of the alarm sounding, leave the building via the nearest safe exit and gather at the assembly point on the far side of the car park. Do not leave the assembly point or re-enter the building until advised to do so. Do not use the lifts.
  - (d) Anyone unable to use the stairs should make themselves known during this agenda item.
2. Apologies for Absence
3. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPIs) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

4. Minutes

To approve the [Minutes](#) of the Meeting held on 12 January 2023 (Minute Nos. 573 – 579) and the Minutes of the Extraordinary Meeting held on 25 January 2023 (Minute Nos. to-follow) as correct records.

**Part B Reports for the Planning Committee to decide**

5. Deferred Item

5 - 34

To consider the following application:

22/503385/FULL Wynne Hall, First Avenue, Eastchurch

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

Requests to speak on this item 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 8 February 2023.  
6. Report of the Head of Planning Services

35 - 146

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 8 February 2023.

### **Issued on Tuesday, 31 January 2023**

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**

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## SWALE BOROUGH COUNCIL

### PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

**9 FEBRUARY 2023**

#### Standard Index to Contents

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

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

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

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

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

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

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

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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 – 9 FEBRUARY 2023

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

### DEFERRED ITEMS

Def Item 1    22/503385/FULL    EASTCHURCH    Wynne Hall First Avenue

### PART 2

2.1            22/504096/FULL    BOUGHTON    Thatch Cottage Staplestreet Road

2.2            22/500989/FULL    MINSTER    103 Barton Hill Drive

2.3            22/504805/FULL    QUEENBOROUGH    Rushenden Club Rushenden Road

2.4            22/505611/FULL    UPCHURCH    Burntwick The Street

### PART 3

3.1            21/502256/OUT    MINSTER    Land North East Of Nelson Avenue

3.2            21/504388/FULL    NEWINGTON    Woodland Farm High Oak Hill Iwade Road

### PART 5

### INDEX

5.1            22/501861/FULL    HARTLIP    Paradise Farm The Stables Lower Hartlip Rd

5.2            21/504571/FULL    BORDEN    Greystone Bannister Hill

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**PLANNING COMMITTEE – 9 FEBRUARY 2023****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 - 22/503385/FULL</b>		
<b>APPLICATION PROPOSAL</b> Change of use of the land to use for the stationing of up to 18 holiday caravans, with associated access road and parking areas		
<b>ADDRESS</b> Wynne Hall First Avenue Eastchurch Sheerness Kent ME12 4JN		
<b>RECOMMENDATION</b> That planning permission is Granted		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The number of caravans and layout of the site has been amended following the resolution from Planning Committee on 10 <sup>th</sup> November 2022. The application presents the opportunity to enhance the leisure and tourism economy through the development of a site specifically allocated for holiday caravan purposes under policy DM4 of the Local Plan (2017). The additional caravans would provide job opportunities and bolster the viability of local shops, pubs, etc and for this reason there are clear economic and social benefits to the proposal and no adverse amenity harm or negative effects have been identified that that would outweigh the benefits of approving the development.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The application was first reported to committee on 10 <sup>th</sup> November 2022. Members resolved to give officers delegated powers to grant planning permission, subject to a reduction in the number of caravans and minor layout changes, and collection of the required SAMMS payment. However, it has since emerged that the Parish Council comments were not fully reported to the Planning Committee and the application is being referred back to committee on this basis.		
<b>WARD</b> Sheppey East	<b>PARISH/TOWN COUNCIL</b> Eastchurch	<b>APPLICANT</b> Mr & Mrs D Wynne <b>AGENT</b> Woodstock Associates
<b>DECISION DUE DATE</b> 07/09/22	<b>PUBLICITY EXPIRY DATE</b> 05/12/2022	<b>CASE OFFICER</b> Rebecca Corrigan

**1. BACKGROUND**

- 1.1 This application was initially reported to Planning Committee on 10<sup>th</sup> November 2022, and recommended for approval. A copy of this report is attached at Appendix 1. Members resolved to defer the application to enable some minor changes to the number of caravans proposed and layout of the site. If such amendments were successfully made, Members gave delegated powers to officers for the application to be granted. The committee minutes set out the following resolution.

- 1.2 *Resolved: That application 22/503385/FULL be deferred and if the applicant was amenable to the removal of the caravans and an amended layout that was in accordance with the Committee's views and the discussion at the meeting then delegated powers be given to the officer to approve in line with the agreed changes to the scheme and as per the draft conditions in the report.*
- 1.3 A revised plan was subsequently submitted which shows the removal of two caravans and the re-siting of a third caravan. Overall, the revised scheme now demonstrates a reduction from 20 to 18 caravans with a more favourable layout, as shown on the revised plan. Accordingly, the description of the development has been changed as follows:
- 'Change of use of the land to use for the stationing of up to 18 holiday caravans, with associated access road and parking areas'*
- 1.4 These amendments are in line with the changes sought by Members as discussed at the committee meeting.
- 1.5 Following the November meeting, however, a representation was received from Eastchurch Parish Council which questioned whether earlier comments from the Parish Council had been included in the committee report. Upon further investigation, it was noted that the original response from the Parish Council had been included in the committee report, but that further comments submitted by the Parish Council on 29<sup>th</sup> September had not. As such, the application is being reported back to Planning Committee to ensure that the Council has taken into account the Parish Council comments in making its decision.
- 1.6 For simplicity, the comments of the Parish Council have been highlighted in bold and separated into the following relevant sections, with my response below each section:
- 1.7 **Highways impacts**

Parish Council comments

**The application site is located off a rural lane on an unadopted road. A further increase of traffic for a new site would see yet more deterioration of the existing rural lane – Warden Road. This is not part of the salting route and neither is the unadopted road off Warden Road. The roads are subject to flooding during the winter and are the scene of frequent accidents in icy weather.**

Officer response – The site is located within a large designated holiday park complex. The additional 18 caravans proposed would not add materially to traffic generation when taking into account the significant number of caravans within the wider holiday park complex. The site is accessed via First Avenue which joins the junction of Warden Road and Plough Road. Plough Road and the eastern arm of Warden Road are designated rural lanes. However the southern arm of Warden Road is not and this is the most likely route that vehicles would take from the site, leading to the closest local village at Eastchurch and the main road network between Leysdown, Minster and Sheerness, as well as beyond the Island. There is less likelihood that the eastern arm of Warden Road would be used to travel to and from the site, as this takes a more convoluted route through the wider park complex. No objection to the development has been raised by the Kent County Council Highways team. In my opinion, this scale of traffic would not be harmful to the rural area or designated rural lanes, or conflict with policies DM3 or DM26 of the Local Plan.

## 1.8 **The creation of a new holiday park**

### Parish Council comments

**Although the application site is located within a designated site on the proposals map, it is not part of the two adjacent holiday parks. This application would constitute a new holiday park. There are ample spaces for non-residential tourist caravans in the area. Further static caravans would lead to a possible loss of business by other caravan parks in the same area all vying for the same opportunity. This is not an existing holiday park site.**

Officer Response – Whilst the site is not currently used as a holiday park, it is within the wider designated holiday park area as defined in the Local Plan., Policy DM4 operates as a tool to support holiday park accommodation within designated holiday park areas, and is clear that permission will not be granted for new caravans or chalets or extensions to existing sites outside of such areas. I do not consider that Policy DM4 acts to restrict a new holiday park development within the defined holiday park areas.

## **2. Discussion**

- 2.1 Officers consider the scheme to be acceptable for the reasons set out in the November committee report. This report seeks to ensure that the Parish Council comments missing from the November report have been properly reported to committee and considered by Members. For the reasons set out in the officer response comments above, it is considered that the proposed development remains acceptable and in accordance with the Local Plan.
- 2.2 The applicant has also made the relevant SAMMS payment to mitigate additional impacts arising on the SPA and Ramsar sites. An Appropriate Assessment is included within the report attached as Appendix 1.

## **3. CONCLUSION**

- 3.1 The application is recommended for approval, subject to the same conditions listed in the November committee report and listed again below.

## **4. RECOMMENDATION**

That planning permission is GRANTED, subject to the following conditions:

### **CONDITIONS to include**

- 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) The development hereby approved shall be carried out in accordance with drawing

title number(s): Site location plan, WY/22/130.03C (as amended 11.11.2022)

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

- 3) No more than eighteen (18) caravans shall be stationed on the site at any one time, and the caravans shall be sited in the location shown on drawing Ref: WY/22/130.03C (as amended).

Reason: In the interests of the amenities of the area

- 4) No caravans shall be occupied between 3rd January and 28th February (or 29th February in any leap year) and no caravans shall be occupied unless there is a signed agreement between the owners or operators of the Park and all chalet/caravan owners within the application site, stating that:
- (a) The chalets/caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
  - (b) No chalet or caravan shall be used as a postal address; and
  - (c) No chalet or caravan shall be used as an address for registering, claiming or receipt of any state benefit; and
  - (d) No chalet or caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
  - (e) If any chalet or caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licenses.

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

Reason: In order to prevent the chalets/caravans from being used as a permanent place of residence, in accordance with policy DM5 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 5) Any chalet or caravan that is not the subject of a signed agreement pursuant to condition 4 shall not be occupied at any time.

Reason: In order to prevent the chalets/caravans from being used as a permanent place of residence, in accordance with policy DM5 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 6) The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Reason: In order to prevent the chalets/caravans from being used as a permanent place of residence, in accordance with policy DM5 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 7) Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be

accommodated and disposed of without increase to flood risk on or off-site.

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

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

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

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

- 8) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate 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) No construction activities shall take place, other than between 0730 to 1800 hours Monday to Friday and 0800 to 1300 hours Saturday, with no working activities on Sunday or Bank Holiday.

Reason: In the interests of amenity

- 10) No development works shall take place (including any ground works/vegetation clearance), until a precautionary mitigation strategy has been submitted to, and approved by, the local planning authority. The content of the strategy will include:

- The objectives for the proposed works;
- The extent and location of proposed works shown on appropriate scale plans;
- Details of works timing and expected duration;
- Proposed sensitive working methods, including: protective fencing of retained trees and hedgerows, removal of roofing materials by-hand during the bat activity season, Reasonable Avoidance Measures (RAMs) for protected species and sensitive timing of works for breeding birds;

- Contingency plans should a protected species be encountered during works;
- Details of those responsible for implementing the mitigation strategy.

The works shall be carried out in accordance with the approved details for the full duration of the construction period.

Reason: In the interests of Biodiversity

- 11) Prior to occupation, a lighting design plan for biodiversity shall be submitted to and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, as well as the expected light spill in lux levels, to demonstrate that areas to be lit will not adversely impact biodiversity. Specific regard should be given to avoiding lighting impacts on retained trees, hedgerows, and proposed bat/bird boxes. 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

- 12) Within six months of works commencing, details of how the development will offset loss and provide enhancement for biodiversity will be submitted to, and approved by, the local planning authority. This will include a native species-only landscaping scheme. The approved measures will be implemented and retained thereafter.

Reason: In the interests of Biodiversity

- 13) Prior to the use of the development hereby permitted commencing, a scheme for the provision of electric vehicle charging points (EVCP) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first use of the development hereby approved.

Reason: In the interests of climate change and lowering pollution levels.

- 14) 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 be based upon the indicative landscaping proposals shown on the block plan WY 22/130.03C and 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.

- 15) 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.

- 16) 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.

- 17) The area shown on the submitted plan as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of any of the dwellings hereby permitted. At least the first 5 metres of the access from the edge of the highway shall be constructed of a bound surface.

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

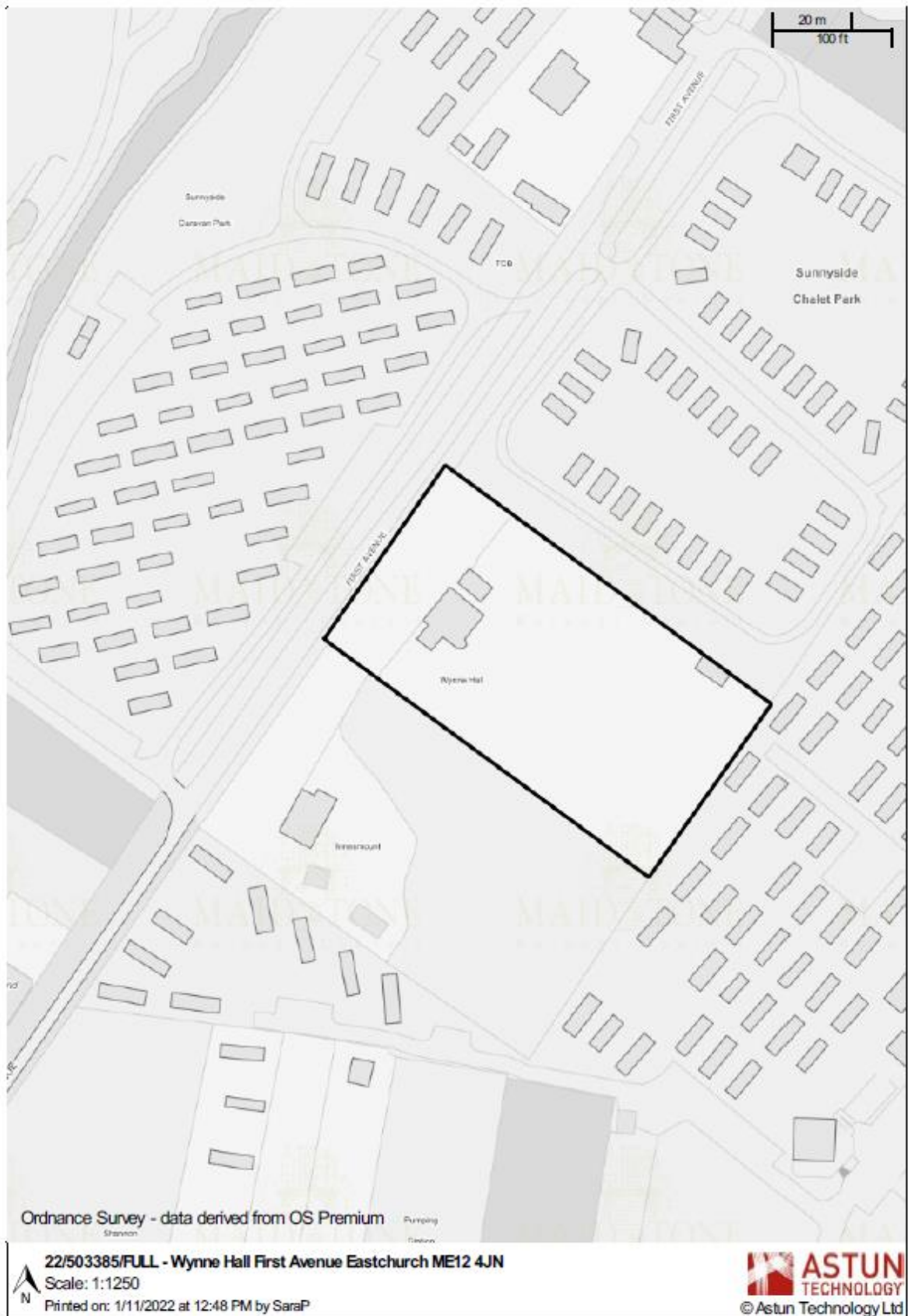
- 18) Upon first occupation of any caravan and for the duration of the use of the site as a holiday park, the existing dwelling shall be only used for the purposes of a managers or staff accommodation connected to the operation of the holiday park hereby permitted.

Reason: Because any unrelated use or occupation of the dwelling would be likely to give rise to unacceptable amenity impacts.

## SCHEDULE

The Park operator must:

- 1) Ensure that all chalet/caravan users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
- 2) Hold copies of documented evidence of the chalet/caravan users' main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
- 3) On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
- 4) Require chalet/caravan users to provide new documentation if they change their main residence; and
- 5) Send all written communications to the main residence of the chalet/caravan user; and
- 6) Not allow postal deliveries to the chalet/caravan or accept post on behalf of the chalet/caravan users at the park office; and
- 7) Ensure that each chalet/caravan is to be used for holiday use only and that no chalet/caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and
- 8) Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.





**APPENDIX 1**

<b>2.3 REFERENCE NO - 22/503385/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Change of use of the land to use for the stationing of up to 20 holiday caravans, with associated access road and parking areas			
<b>ADDRESS</b> Wynne Hall First Avenue Eastchurch Sheerness Kent ME12 4JN			
<b>RECOMMENDATION</b> That planning permission is Granted subject to receipt of a SAMMS Payment			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
This application presents the opportunity to enhance the leisure and tourism economy through the development of a site specifically allocated for holiday caravan purposes under policy DM4 of the Local Plan (2017). The additional caravans would provide job opportunities and bolster the viability of local shops, pubs, etc and for this reason there are clear economic and social benefits to the proposal and no adverse amenity harm or negative effects have been identified that that would outweigh the benefits of approving the development.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Objection from Eastchurch Parish Council			
<b>WARD</b> Sheppey East	<b>PARISH/TOWN COUNCIL</b> Eastchurch	<b>APPLICANT</b> Mr & Mrs D Wynne <b>AGENT</b> Woodstock Associates	
<b>DECISION DUE DATE</b> 07/09/22	<b>PUBLICITY EXPIRY DATE</b> 05/10/22	<b>CASE OFFICER</b> Rebecca Corrigan	
<b>RELEVANT PLANNING HISTORY</b>			
<b>PLANNING REF:</b>	<b>DESCRIPTION</b>	<b>DECISION</b>	<b>DECISION DATE</b>
SW/80/0474	Lounge extension	Approved pre 1990	02.06.1980
SW/98/0505	New roof and first floor and replacement garage.	Grant of conditional	03.07.1998
SW/98/0197	New roof and first floor conservatory, new garage to replace existing	Refused	29.03.1998
SW/07/0503	Single storey extensions and internal alterations	Grant of PP	22.06.2007

**1. DESCRIPTION OF SITE**

- 1.1 The application site forms part of the area of holiday parks to the north of the village of Eastchurch. It is located in the south western part of that area, off the south east side of First Avenue.

**APPENDIX 1**

- 1.2 The land has a site area of approx. 0.6ha and incorporates the detached dwelling of Wynne Hall, situated close to the road frontage, and its extensive rear garden. The rear garden is laid to grass with hard-surfaced tennis courts toward the rear end. The boundaries of the site are marked by hedging with trees. Access to the site is via First Avenue, an unmade road, leading to a large residential forecourt forward of the dwelling.
- 1.3 The site is bordered to the west, north and east by established holiday parks. To the south is a detached dwelling within a similarly large curtilage; that dwelling being located close to the southern boundary of Wynne Halls garden.
- 1.4 Although the site falls within the local plan holiday park designation, it appears to have been used solely as a residential dwelling.

**2. PROPOSAL**

- 2.1 The application is for the change of use of the land from a single dwelling and its residential curtilage to use for the stationing of up to 20 holiday caravans. The use requires the demolition of a detached garage and the formation of a new central access road and parking areas. The access road would be surfaced in resin bonded gravel, with the parking areas surfaced in porous shingle.
- 2.2 The existing dwelling would be retained as manager's accommodation and site reception without alteration. The proposed layout plan shows the arrangement of the caravans around the site, with the provision of a new central access road, a single parking space beside each caravan at a ratio of two spaces each and an area of visitor parking spaces inside the access.
- 2.3 It is intended that the existing native species hedgerow boundary treatment would be retained, although there is a need to remove some small trees in the central part of the site to accommodate access to the caravans.

**3. PLANNING CONSTRAINTS**

- 3.1 In the countryside

**4. POLICY AND CONSIDERATIONS**4.1 National Planning Policy Framework 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

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

Policy ST1	Delivering sustainable development in Swale
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**APPENDIX 1**

Policy ST3	The Swale Settlement Strategy
Policy ST6	The Isle of Sheppey Area Strategy
Policy CP1	Building a strong, competitive economy
Policy CP2	Promoting sustainable transport
Policy CP4	Requiring good design
Policy DM3	The rural economy
Policy DM4	New holiday parks or extensions to existing parks
Policy DM5	The occupancy of holiday parks
Policy DM7	Vehicle parking
Policy DM14	General development criteria
Policy DM19	Sustainable design and construction
Policy DM28	Biodiversity and Geological Conservation

- 4.3 The SBC Vehicle Parking Standards Supplementary Planning Document (SPD) which is pursuant to Policy DM7 of the Bearing Fruits Local Plan Adopted 2017 was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications
- 4.4 The Swale Landscape Character and Biodiversity Appraisal SPD

**5. LOCAL REPRESENTATIONS**

- 5.1 Eastchurch Parish Council – Objection. *The Committee agreed that access was inadequate for any expansion to the site. There were underlying water issues in the winter months that would not be dealt with by inadequate soakaways. Members were concerned that there were 5 caravans already on the site as no planning permission has been applied for, to permit these. The Local Plan has a strong policy resisting the creation of new caravan parks for holiday homes. This application is disingenuous when suggesting that this is an upgrade and expansion of an existing site, by suggesting that the 5 existing vans without planning permission, constitute a regulated site*
- 5.2 A full neighbour consultation took place on 15.07.2022 with the 21 day statutory response to be received by 05.08.2022. A Site Notice was displayed at the site on 21.07.2022 with the 21 day statutory response expiring on 11.08.2022.
- 5.3 In response to the public consultation one (1) letter of objection was received from an immediate neighbour. The letter raised objection to the proposal for the following reasons (summarised):
- Overlooking of property and loss of privacy
  - Traffic effects and safety
  - Noise, smells and disturbance/Layout and density of proposed caravans
  - Loss of trees
  - Effect on the area
  - Flood risk

**6. CONSULTATIONS**

**APPENDIX 1**

- 6.1 SBC Economic Development – *This is a small scale park development with minimal highways impacts but without the detail around site amenities and landscaping that I need to be able to comment upon in any great detail. It will continue to support the UK staycation trend on the Isle of Sheppey through the provision of value for money short and longer park holiday breaks for families in relative proximity to the local seaside amenities. Whilst a small scale development it will add to the number of parks and bedspaces of this type providing further choice to visitors.*
- 6.2 KCC Highways – Originally did not seek to comment on the application. Following contact by the case officer, KCC advise that they raise no objection to the application. They note that the condition of the access road is not ideal, but advise that this is a private access and do not identify and highways safety concerns regarding increased usage.
- 6.3 Natural England – No objection, subject to the Councils Appropriate Assessment and SAMMS Payment
- 6.4 KCC Ecological Advice – Initially requested further information as follows:
- *Detailed photographs of the building/s – including walls, roof and internal photographs of the detached garage and potential structure to north of tennis courts if present and being removed.*
  - *Detailed photographs of the fruit trees to be removed (trunk and exposed/larger limbs)*
- Following receipt of supporting information KCC raised no objection to the proposal subject to safeguarding conditions
- 6.5 SBC Environmental Health – No objection, subject to conditions
- 6.6 KCC Flood Water and Management – Raise no objection following the submission of a FRA, subject to conditions.

**7. APPRAISAL**

## Principle of Development

- 7.1 Policy ST3 of the Swale Local Plan 2017 supports the principle of development where the proposed development site is located within the established built-up area boundaries of towns and villages within the borough. The policy states that development will not be permitted on countryside land which falls outside of the defined built-up area boundaries unless the development proposal is supported by national policy and the development would contribute to protecting and enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities.
- 7.2 In this case, while the application site is located outside of the built-up area boundaries, the site does fall within the established boundary of holiday park areas as defined by

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Policy DM4 of the Local Plan (2017). Policy DM4, is therefore critical to the assessment of this application. Part 3, of Policy DM4 allows for the development of new or improved facilities if they are *a) of a type and scale appropriate to the site or park they intend to serve, b) where feasible, made available for use by the local resident population and c) in accordance with Policy DM 5 in terms of occupancy.*

- 7.3 In addressing DM 4, part 3 (a) *of a type and scale appropriate to the site*, the caravan park would be of a type and scale appropriate to the locality, not least as it would be very similar to existing caravan parks to the west, north and east of the site, albeit on a much smaller scale. It would represent a modest addition to the existing complex of holiday parks in this area.
- 7.4 In addressing DM 4, part 3 (b) *where feasible, made available for use by the local resident population*. In this instance, the caravan park is on the smaller scale of holiday accommodation and does not include a shop or club house as part of the proposal which on larger sites could be made available for use by the general public. There is no reason why the members of the local population could not use the facility as a holiday park if they were so inclined in the normal way that holidaymakers make such visits.
- 7.5 In addressing DM 4, part 3 (c) *in accordance with Policy DM 5 in terms of occupancy*, the site is located within a designated holiday park area and therefore Policy DM5 is relevant given that the proposal relates to the introduction of 20 no. caravans for holiday use.
- 7.6 Policy DM5 states; ‘In order to ensure a sustainable pattern of development and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets.’ Policy DM5 allows for an extended occupancy period of 10 months rather than the (previously) standard 8 months, subject to the holiday accommodation not being used as sole or main residences amongst other considerations. The proposal seeks holiday accommodation, not permanent residency and relevant safeguarding conditions would be attached to the approval notice to ensure this would only extend to the 10 month occupancy period endorsed under Policy DM5 . The applicant has confirmed that these conditions would be acceptable.
- 7.7 The criteria for policy DM5 further sets out that development must ensure (1) *The site is not at risk of flooding, unless, exceptionally, applications accompanied by a Flood Risk Assessment (FRA) satisfactorily demonstrating that the proposal would result in no greater risk to life or property and where appropriate flood evacuation plan would be put in place.* In this regard, the site is not located within an area identified as at risk of flooding. The application is supported with a ‘Drainage Impact and Flood Risk Assessment’ and having reviewed the information, KCC Flood Water and Management are satisfied with the findings of the report subject to three (3) pre-commencement conditions attached to the approval notice. These have been agreed in writing by the planning agent on behalf of the applicant and is therefore sufficient to comply with DM5 (1) of the Local Plan (2017)

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- 7.8 Policy DM 5 (2) *The amenity and tranquillity of the countryside and residential areas are safeguarded.* This is addressed in full detail in the relevant sections below, para 7. 14, under Visual Impact and paragraph 7.15 under Residential Amenity, however on both accounts the impact is considered to be acceptable. Moreover, the approval would be subject to standard occupancy conditions where limited occupancy affords the opportunity to retain a period of tranquillity in rural areas.
- 7.9 Policy DM 5 (3) *The proposals are in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area.* The site is not within the coastal erosion or coastal management zones referred to in Policies DM22 and DM23, and the land is not prone to flooding.
- 7.10 Policy DM 5 (4) *Where located adjacent or in close proximity to the Special Protection Areas (SPA), an assessment has been undertaken to determine the level of disturbance to over-wintering birds and identified mitigation measures, where possible.* This application will result in a net increase in visitors to the site where impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Notwithstanding, suitable means of mitigation by means of SAMMS mitigation payment has been agreed and this is set out in further detail under paragraph 7.21 below.
- 7.11 Policy DM 5 (5) *The extension of occupancy is subject to planning conditions safeguarding the holiday accommodation from being used as sole or main residences.* In the event of an approval, relevant occupancy conditions would be attached to the consent.
- 7.12 For the reasons set out above, the principle of development for the change of use from residential to holiday accommodation within an area designated for this purpose is fully compliant with policies DM4 and DM5 of the Local Plan and therefore considered acceptable.

## Visual Impact

- 7.13 In terms of visual impact, the proposed development would result in a change to the current open character of the residential curtilage. However, this should be considered in the context of the designation of the site as part of the wider holiday park complex. The land is not the subject of any particular landscape designation, nor are heritage assets affected. The site is surrounded by developed sites, with much of the neighbouring land given over to similar holiday park uses. In a relatively flat landscape, largely obscured from the public domain it is difficult to see how the development proposed within a designated holiday park area would cause any significant negative impact. Caravans are inherently of low height and the physical works proposed in this application are essentially ground level works to form access and parking space. Existing landscaped boundaries would be retained and enhanced to help minimise impact and provide a suitable context for holiday caravans. A landscaping buffer is proposed to screen the site from the neighbouring property to the south which would be subject to planning conditions. For these reasons, it is considered that the

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development would not have an unacceptable impact on the surrounding area consistent with polices CP4 and DM14 of the Local Plan (2017)

Residential Amenity

- 7.14 There is only one residential neighbour to the south and that property enjoys a spacious curtilage with the dwelling set well away from the boundary with the application site. Notwithstanding, I acknowledge the intensified use that would occur above the current residential use and concerns which have been raised from the neighbouring property relating to noise and disturbance, overlooking and loss of privacy. A revised plan was submitted (Ref: WY 22 30.03B) which shows the retention of the existing Hawthorn hedge along the boundary supplemented with further indigenous species of trees and natural hedgerows to form a 4-6m landscape barrier to screen the site from this neighbouring boundary. Moreover, the approval would be subject to standard occupancy conditions where limited occupancy affords the opportunity to retain a period of tranquillity in rural areas. Moreover, SBC Environmental Health have been consulted and raise no objection to the proposal as presented. With these factors in mind, I do not consider that the proposed development would result in any significant impacts to the living conditions of this neighbouring property to a degree that would warrant a refusal, consistent with policy DM14 of the Local Plan (2017)

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## Highways

- 7.15 On highways issues, this would be a relatively modest additional facility to the existing complex of holiday parks. The likely increase in traffic generated would be modest compared to the existing traffic using the network of roads that serves the wider park complex. First Avenue is a straight, unmade access road that is considered suitable to serve the relatively small scale facility proposed here. I have consulted with KCC Highways and while First Avenue is an unmade road, they have advised that they would not be able to recommend refusal based on the condition of the access road (which in this instance is privately owned/maintained) on the basis that the existing access from Plough Road has suitable visibility. Overall, I am satisfied that the proposal would not lead to highway safety concerns consistent with the aims of policies DM6 and DM14 of the Local Plan (2017).
- 7.16 In line with the adopted SBC Parking Standards SPD, two spaces are provided per caravan with additional visitors parking accommodated on the front forecourt. As such, the proposal complies with the requirements of SBC Parking Standards therefore the development would provide suitable parking provision for occupiers.

## Landscaping

- 7.17 Aside from the need to remove some small trees (fruit trees and a walnut) as shown on the drawings, trees and hedging would be retained to provide landscaped boundaries. The trees to be removed are not considered to be of significant amenity value and would be replaced by new specimens, strategically placed to enhance the appearance of the site. Additional planting of indigenous tree and hedgerow species is proposed to 'gap-up' deficiencies in the existing boundary treatments and this would be subject of planning conditions.

## Ecology

- 7.18 This application will result in a net increase in visitors to the site where impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. The North Kent Strategic Access Management and Monitoring Scheme Board (SAMMS) has identified that such impacts are also likely from new holiday accommodation (including caravan parks), and recommends that a tariff is applied per plot as mitigation. This tariff would be used to fund measures within the Birdwise Mitigation Strategy. Should the application be approved, the applicant has agreed to pay the fee set at £275.88 per caravan, a total of £5517.66 is therefore required. Subject to receipt of payment, the application would be considered acceptable in terms of impact upon the SPA. For the sake of thoroughness I have set out an appropriate assessment below.
- 7.19 The development would be unlikely to result in any unacceptable impacts to biodiversity on the site. KCC Ecology raise no objection, subject to precautionary and enhancement conditions, which are included in the recommended list below.



Report to Planning Committee – 9 February 2023

DEF ITEM 1

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Report to Planning Committee – 10 November 2022

ITEM 2.3

7.20 On the basis of the above, I consider the development would not result in unacceptable impacts to biodiversity and would accord with Policy DM28 of the Local Plan.

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**8. CONCLUSION**

8.1 This application presents the opportunity to enhance the leisure and tourism economy through the development of a site specifically within a wider holiday park designation under policy DM4 of the Local Plan (2017). The additional caravans would provide job opportunities and bolster the viability of local shops, pubs, etc and for this reason there are clear economic and social benefits to the proposal. No adverse amenity harm or negative effects have been identified that that would outweigh the benefits of approving the development, for this reason it is recommended that planning permission is granted.

**9. RECOMMENDATION**

That planning permission is GRANTED Subject to receipt of the relevant SAMMS Payment and the following conditions:

**CONDITIONS to include**

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. The development hereby approved shall be carried out in accordance with drawing title number(s): Site location plan, WY 22 30.03B

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

3. No more than twenty (20) caravans shall be stationed on the site at any one time, and the caravans shall be sited in the location shown on drawing Ref: WY 22 30.03B (as amended).

Reason: In the interests of the amenities of the area

4. No caravans shall be occupied between 3rd January and 28th February (or 29th February in any leap year) and no caravans shall be occupied unless there is a signed agreement between the owners or operators of the Park and all chalet/caravan owners within the application site, stating that:

(a) The chalets/caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and

(b) No chalet or caravan shall be used as a postal address; and

(c) No chalet or caravan shall be used as an address for registering, claiming or receipt of any state benefit; and

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- (d) No chalet or caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
- (e) If any chalet or caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licenses.

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

Reason: In order to prevent the chalets/caravans from being used as a permanent place of residence, in accordance with policy DM5 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 5. Any chalet or caravan that is not the subject of a signed agreement pursuant to condition 4 shall not be occupied at any time.

Reason: In order to prevent the chalets/caravans from being used as a permanent place of residence, in accordance with policy DM5 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 6. The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Reason: In order to prevent the chalets/caravans from being used as a permanent place of residence, in accordance with policy DM5 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 7. Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

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

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

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

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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. No construction activities shall take place, other than between 0730 to 1800 hours Monday to Friday and 0800 to 1300 hours Saturday, with no working activities on Sunday or Bank Holiday.

Reason: In the interests of amenity

10. No development works shall take place (including any ground works/vegetation clearance), until a precautionary mitigation strategy has been submitted to, and approved by, the local planning authority. The content of the strategy will include:

- The objectives for the proposed works;
- The extent and location of proposed works shown on appropriate scale plans;
- Details of works timing and expected duration;
- Proposed sensitive working methods, including: protective fencing of retained trees and hedgerows, removal of roofing materials by-hand during the bat activity season, Reasonable Avoidance Measures (RAMs) for protected species and sensitive timing of works for breeding birds;
- Contingency plans should a protected species be encountered during works;
- Details of those responsible for implementing the mitigation strategy.

The works shall be carried out in accordance with the approved details for the full duration of the construction period.

Reason: In the interests of Biodiversity

11. Prior to occupation, a lighting design plan for biodiversity shall be submitted to and

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approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, as well as the expected light spill in lux levels, to demonstrate that areas to be lit will not adversely impact biodiversity. Specific regard should be given to avoiding lighting impacts on retained trees, hedgerows, and proposed bat/bird boxes. 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

12. Within six months of works commencing, details of how the development will offset loss and provide enhancement for biodiversity will be submitted to, and approved by, the local planning authority. This will include a native species-only landscaping scheme. The approved measures will be implemented and retained thereafter.

Reason: In the interests of Biodiversity

13. Prior to the use of the development hereby permitted commencing, a scheme for the provision of electric vehicle charging points (EVCP) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first use of the development hereby approved.

Reason: In the interests of climate change and lowering pollution levels.

14. 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 be based upon the indicative landscaping proposals shown on the block plan WY 22/130.03B and 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.

15. 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.

16. 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.

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

17. The area shown on the submitted plan as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of any of the dwellings hereby permitted. At least the first 5 metres of the access from the edge of the highway shall be constructed of a bound surface.

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

18. Upon first occupation of any caravan and for the duration of the use of the site as a holiday park, the existing dwelling shall be only used for the purposes of a managers or staff accommodation connected to the operation of the holiday park hereby permitted.

Reason: Because any unrelated use or occupation of the dwelling would be likely to give rise to unacceptable amenity impacts.

**SCHEDULE**

The Park operator must:

- 1) Ensure that all chalet/caravan users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
- 2) Hold copies of documented evidence of the chalet/caravan users' main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
- 3) On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
- 4) Require chalet/caravan users to provide new documentation if they change their main residence; and
- 5) Send all written communications to the main residence of the chalet/caravan user; and
- 6) Not allow postal deliveries to the chalet/caravan or accept post on behalf of the chalet/caravan users at the park office; and
- 7) Ensure that each chalet/caravan is to be used for holiday use only and that no chalet/caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and

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- 8) Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

**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.

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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.



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

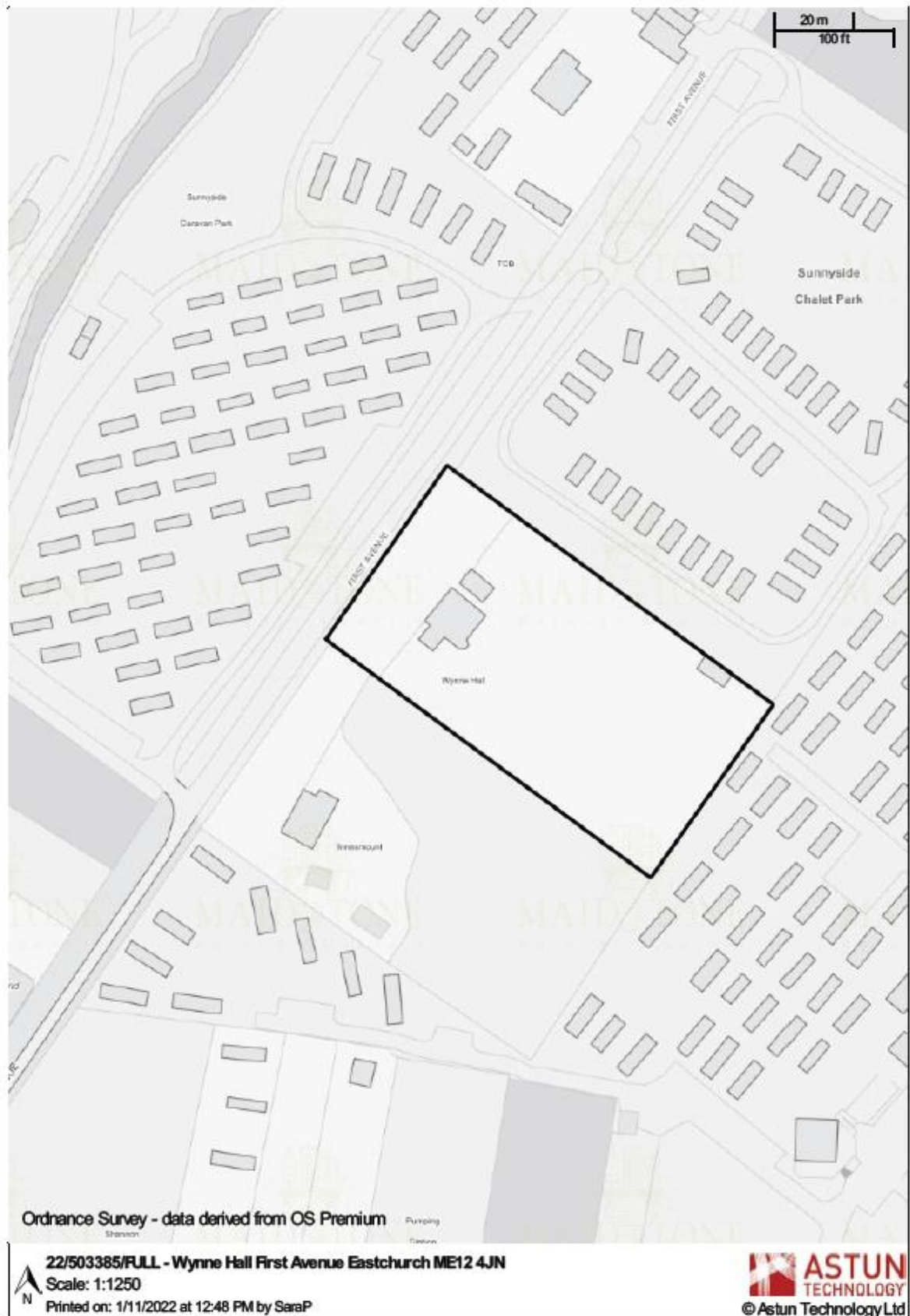
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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

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

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**PLANNING COMMITTEE – 9 FEBRUARY 2023 PART 2**

Report of the Head of Planning

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

<b>2.1 REFERENCE NO - 22/504096/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of existing derelict cottage and replacement with 2no. detached dwellings with associated cycle and bin stores, parking, and access (resubmission of 22/501068/FULL).		
<b>ADDRESS</b> Thatch Cottage Staplestreet Road Boughton Under Blean Kent ME13 9TJ		
<b>RECOMMENDATION</b> Approve subject to SAMMS payment (1 x £275.88)		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection.		
<b>WARD</b> Boughton and Courtenay	<b>PARISH/TOWN COUNCIL</b> Dunkirk	<b>APPLICANT</b> Mr. Patrick Butler <b>AGENT</b>
<b>DECISION DUE DATE</b> 14/10/22	<b>PUBLICITY EXPIRY DATE</b> 27/09/22	<b>CASE OFFICER</b> Claire Attaway

**Planning History**

22/501068/FULL

Demolition of existing derelict Thatch Cottage and replacement with two detached dwellings with cycle and bins stores and associated access parking.

Withdrawn Decision Date: 07.04.2022

SW/78/0051

ERECTION OF A GARAGE

Approved pre 1990 Decision Date: 31.05.1978

**1. DESCRIPTION OF SITE**

- 1.1 This site of approximately 696m<sup>2</sup> in area lies within the Local Plan defined built up area boundary of Boughton under Blean, within the Boughton and Dunkirk Neighbourhood Plan (BDNP) area and within an Area of High Landscape Value (Swale Level). The site itself falls within the Parish of Dunkirk, and includes a detached dwelling known as Thatch Cottage.
- 1.2 Thatch Cottage sits on a generous plot, in a prominent position close to the roadside, with farmland surrounding the site to the north and west. This section of Staplestreet Road features largely detached properties either side of the road and Thatch Cottage is the last property on the western side of the highway.
- 1.3 The cottage, built in the late 18<sup>th</sup> century, is of timber framed construction, with a thatched roof. However, the cottage is now in an extremely poor condition and large sections of the

thatched roof are missing. The building has also been extended in several phases and as such a significant proportion of the building consists of modern fabric.

## **2. PROPOSAL**

- 2.1 This application is seeking planning permission to demolish the existing cottage and to construct 2 x two storey detached dwellings. The houses would be side by side facing the road and adjacent to the neighbouring two storey property known as The Jays. The new dwellings would be constructed of multi stock brickwork with weatherboarding on the upper walls, black UPVC windows, and a tiled roof. Each house would have four car parking spaces with an electric vehicle charging point, and a rear garden approx. 11m long with a cycle and bin store.
- 2.2 The 3 bedroom house on what is labelled Plot 1 would be situated approx. 1.8 m (narrowing to 1.2m) away from The Jays and about 2.8m from the new dwelling on the other side. The house will measure approx. 6.7m wide x 10.6m deep and have a gabled roof that is set at different heights. The front of the building will have an eaves height of 4.8m and a ridge height of 7.1m, and at the rear, it will be a set at a lower level with an eaves height of 3.5m and a ridge height of 6.3m.
- 2.3 The 4 bedroom house on Plot 2 will be L shaped and measure approx. 10.5m wide x 11.0m deep, to a height of 4.9m to the eaves and 7.2m to the ridge. The house would have an integral single garage, measuring approx. 3.0m wide x 6.0m long.
- 2.4 The application is supported by a Design and Access Statement (DAS), a Structural Appraisal (SA) and a Heritage Statement (HS). Since submission, a Preliminary Ecological Appraisal (PEA), an Ecology Enhancement Plan (EEP) and a Biodiversity Metric (BM) has also been submitted.
- 2.5 The EEP includes the following ecological enhancement works:
  - 4 x bird boxes secured to walls
  - 2 x Kent bat boxes secured under eaves
  - Tree planting within rear gardens
  - native hedgerow planting along site boundaries
  - hedgehog gates
- 2.6 The BM calculates the proposed development will achieve a 32.51% biodiversity net gain (BNG) for habitats and 100% BNG for hedgerows.

## **3. PLANNING CONSTRAINTS**

- 3.1 Within an Area of High Landscape Value (Swale Level)

## **4. POLICY AND CONSIDERATIONS**

- 4.1 The National Planning Policy Framework (NPPF): Paragraphs 8; 11; 39; 40; 126 and 130.

4.2 The DCLG Technical housing standards – nationally described space standard March 2015. The minimum gross internal floor area for a 3 bedroom two storey (5 person) dwelling is 93m<sup>2</sup>, and for a 4 bedroom two storey (7 person) dwelling is 115m<sup>2</sup>.

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

Policy ST1 Delivering sustainable development in Swale

Policy ST3 The Swale settlement strategy

ST7 The Faversham area and Kent Downs strategy

Policy CP3 Delivering a choice of high quality homes

Policy CP4 Requiring good design

Policy DM7 Vehicle parking

Policy DM14 General development criteria

Policy DM19 Sustainable design and construction

Policy DM21 Water, flooding and drainage

Policy DM24 Conserving and enhancing valued landscapes

Policy DM28 Biodiversity and geological conservation

4.4 The Swale Borough Council Car Parking Standards Supplementary Planning Document (SPD) recommends 3+ parking spaces for a 3 or 4 bedroom house in a rural location, and that provision is also made for one cycle parking space per bedroom. Each new dwelling would also be expected to be provided with an electric vehicle charging point. The recommended dimensions for a single garage are 3.6m wide x 7.0m deep.

4.5 The Swale Borough Council Landscape Character and Biodiversity Appraisal SPD designates the site within the Hernhill and Boughton Fruit Belt. It describes the landscape as traditional rolling Kentish landscape of orchards, overshadowed by Blean Woods, with good quality, well drained, deep loam soils and well managed landscape that is intensively farmed, and traditional vernacular buildings, large oast houses and large country houses. The materials considered appropriate in this area for building walls include weatherboarding, tile hanging, timber frame and plaster infill, flint, red or yellow stock brick and white/rendered painted brick, some stone and flint. The overall condition of the landscape is rated good and landscape sensitivity is rated high. The guidelines focus on conserving the traditional landscape and built environment.

4.6 The Boughton and Dunkirk Neighbourhood Plan was submitted for examination in August last year. The examiner's report concludes that that the plan meets the basic conditions and can proceed to referendum, subject to modifications. As a result, the policies within the plan (as modified by the examiner) should now be given considerable weight. The most relevant policies of that plan are as follows:

Policy H1

*The provision of new housing within the Plan area, particularly to meet local needs and including the provision of affordable housing, will be supported, where such proposals comply with all other relevant policies in this Plan and those in the adopted Swale Borough Local Plan.*

*Proposals for new residential development will need to demonstrate that all aspects of the development comply with the objective of securing sustainable patterns of development*

*within the Plan area, particularly in respect of seeking to minimise environmental impacts, such as traffic generation. All new dwellings should be designed and built to comply with Part M of the Building Regulations.*

#### Policy H3

*Proposals for new residential development in the Plan area should include a mix of housing types, including smaller homes for people seeking their first home or for older peoples seeking to downsize from larger properties. Developments of 11 or more new dwellings must provide 40% affordable housing, in accordance with the Borough Council's policies and Housing Strategy.*

#### Policy H5

*Proposals for new residential development in the Plan area will be supported where they:*

- 1. demonstrate that they are of good design and locally distinctive style, respecting the principle of the current Kent Design Guide, and including suitable green spaces and children's play areas. (see also Policies E1, E2 and E3); and*
- 2. demonstrate that they will be sympathetic to the street scene and their settings as set out in an agreed Design code for the development and/or for the wider area; and*
- 3. Include building design features to seek to achieve carbon neutrality and reductions in energy usage.*

#### Policy H8

*Proposals for new residential development in the Plan area shall ensure that adequate on-site car parking provision is made in accordance with the Borough Council's approved Parking Standards SPD (adopted June 2020).*

*Development proposals which involve the loss or conversion of existing on-site car parking spaces, for example the conversion of a garage to living accommodation, will only be supported where adequate on-site parking provision, in accordance with the Parking Standards remains available to support the completed development.*

#### Policy E8

*A minimum level of at least 10% Biodiversity Net Gain is required for proposed new developments in the Plan area against baseline conditions for the development sites concerned.*

## **5. LOCAL REPRESENTATIONS**

- 5.1 No local representations received.

## **6. CONSULTATIONS**

- 6.1 Dunkirk Parish Council object to the application for the reasons summarised below –
- Over-intensive use of site, should be a one-for-one replacement only

- Insufficient sight lines and associated highways safety impacts
- Design and appearance not in keeping with the surroundings and street scene
- Contrary to local plan and neighbourhood plan
- If permitted, the dwellings should incorporate carbon reduction / sustainability measures

6.2 Hernhill Parish Council (adjacent parish council) object to the application (summarised)

- The building should be considered a non-designated heritage asset, and should be restored, not demolished
- Thatched cottages are rare in the area
- Two dwellings would represent overdevelopment of the site. Any new-build should be of similar height and footprint to the existing building.

6.3 Boughton under Blean Parish Council (adjacent parish council) responded to say they had no comments.

6.4 Natural England raises no objection to the application subject to strategic mitigation (SAMMS) payment in respect of possible increased recreational disturbance to The Swale SPA/Ramsar site.

6.5 KCC Ecology are satisfied there is limited potential for protected/notable species to be present due to the site clearance/building demolition works that have been carried out. They recommend the building to be demolished as soon as possible to minimise the risk of roosting bats. With regards to Policy E8 of the BDNP they comment as follows:

*A biodiversity Net Gain Metric has been submitted and it has detailed that over 30% BNG for habitats is anticipated and 100% BGN for hedgerows. We advise that we do not agree with the calculations of the metric as it's our opinion that 30% BNG for habitats is too high as the calculation is based on the assumption that nearly one third of the site will be grassland. We believe that that area of grassland will be less than one third of the site however we have reviewed the calculations and we are satisfied that if up to 1 sixth of the site is created grassland a Biodiversity Net Gain of 10% can be achieved within the site. Therefore, based on above assumption we advise that it is likely that an anticipated BNG as per the policy can be achieved.*

*We highlight the metric was produced following the site clearance works and the metric is based on the habitats currently on site not habitats prior to the site clearance works. This is not best practice and for future metric submissions associated with this policy and BNG under the Environment Act we advise that the metric must be based on habitats present within the site prior to site clearance.*

6.6 KCC Highways and Transportation (KHT) raises no objection. They advise that:

*"The applicant commissioned a speed survey so that the appropriate visibility sightlines could be determined from the road conditions, rather than defaulting to those based on the national speed limit, and this showed that the relevant assessment measure of the 85<sup>th</sup>*

*percentile vehicle speed passing the site was 19.5mph and 24.8mph in each direction for southbound and northbound traffic respectively.*

*The current layout proposals now show the provision of a single access point shared with both of the new dwellings, and an area separating the respective parking spaces to accommodate turning. Vehicles associated with the development will therefore be able to enter and exit the site in a forward gear, rather than either reversing on or off the highway as currently required and previously proposed.*

*The central access position now affords significantly better sightlines than existing, and the sightline to the north would achieve the desired view based on the measured vehicle speeds. Whilst the sightline to the south would be slightly shorter than the calculated distance if the neighbouring wall is retained, it is significantly better than the existing arrangement. On balance, this is considered acceptable in the absence of any crash history in relation to the existing use of the access. Securing the sightlines indicated on the submitted plans within the application site would also enable the full visibility splay to be provided, should the neighbours boundary wall be stepped back in the future, and this would facilitate compliant sightlines for that property too.”*

6.7 SBC Environmental Protection Team raise no concerns.

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

7.1 Application papers and drawings relating to application reference 22/504096/FULL.

## **8. APPRAISAL**

### Principle of Development

8.1 The site constitutes previously developed land and is located within the Local Plan defined built-up area boundary of Boughton, where the principal of minor infill residential development accords with Policy ST3 of the adopted Local Plan, and Policy H1 of the Boughton and Dunkirk Neighbourhood Plan (BDNP).

### Whether the building is a non-designated heritage asset

8.2 The existing building, Thatch Cottage, contains a historic core dating back to the late 18<sup>th</sup> Century. It has been unsympathetically extended and has fallen into a state of disrepair, although it still displays a degree of visual charm and interest. The Heritage Statement submitted with the application sets out that the significance of the building is low, taking into account the substantial later additions and that the facing materials to the building, including the thatched roof, are more modern additions, likely from the mid to later 20<sup>th</sup> Century. The earlier timber frame is in very poor condition and a structural survey confirms that there are no areas of this frame that are salvageable or fit for re-use in reconstruction of the cottage. From the information submitted with the application regarding the condition and form of the building, the Council's Conservation and Design Manager advises that it would not be considered as a non-designated heritage asset. I agree with this and that demolition of the building is unobjectionable.

### Impact on the character and appearance of the street scene



- 8.3 Policy CP4 of the adopted Local Plan requires good design that is appropriate to the context in respect of materials, scale, height, and massing, and use densities determined by the context and the defining characteristics of the area. Policy H5 of the BDNP requires new housing development to be of a good design that is sympathetic to the street scene. The Government attaches great importance to the design of the built environment as stated in paragraph 130 of the NPPF which exhorts Local Planning Authorities to, amongst other things ensure that developments, '*are sympathetic to local character and history, including the surrounding built environment*' and '*establish and maintain a strong sense of place*'.
- 8.4 The properties along this section of Staplestreet Road are characterised by mostly detached homes and bungalows varying in style, character, and age, with some fronting the road and some set further back. The replacement dwellings will be sited at the end of a row of two storey detached homes with integral garages and paved front gardens. These existing dwellings are brick built with render/tile hanging to the upper walls. Immediately opposite the site is a large two storey detached house that has white rendered walls and further along the road are detached brick built bungalows with long front gardens.
- 8.5 The site area is generous, and I believe it is of adequate size to accommodate the proposed dwellings. Due to the differences in ground level, the ridge height of the proposed dwellings will be no taller than the neighbouring property.
- 8.6 Although the proposal is for new dwellings, I am mindful that the Council's SPG – "Designing an Extension" sets out specific guidance for areas of detached or semi-detached housing where side extensions close to side boundaries can erode the open character of such areas. The guidance states that a gap of 2 metres will normally be required to preserve the areas character and sense of openness.
- 8.7 I note the majority of dwellings within the immediate vicinity sit close together with a gap of around one metre or in some cases, on the common boundary. Therefore, this particular area within this section of Staplestreet Road does not have a spacious character.
- 8.8 The new house on Plot 1 will be sited approx. 1.8m (narrowing to 1.2m) away from the side boundary to the adjacent dwelling, The Jays. This neighbouring dwelling is set to one side of its plot such that it sits on the common boundary with its adjacent dwelling, Ashley Dene, leaving a gap of approx. 1 metre to the side boundary with the application site. The new houses on Plot 1 and 2 will be separated by a driveway and garage meaning there will be a gap of approx. 2.8m between these properties. I am satisfied that the replacement dwellings are of an appropriate scale and design and in keeping with the pattern of development and spacing within the streetscene.
- 8.9 The replacement dwellings will be brick built with weatherboarding to the upper walls and a tiled roof, although detailed finishes will be subject to a condition which will ensure that a good quality of materials can be secured. I consider the proposed materials are in-keeping with dwellings nearby and comply with the policy guidance of The Swale Landscape Character and Biodiversity Appraisal SPD.

#### Residential Amenity

- 8.10 The closest neighbouring property, The Jays, is set on slightly higher ground and has a tall brick wall along the side boundary enclosing the side entrance door. At first floor, this property

has two side windows serving non-habitable rooms – a bathroom and a toilet. Nonetheless, the rear of the new house on Plot 1 has been designed with a lower ridge and lower eaves towards the side boundary with The Jays. This will ensure there would be no significant loss of light or outlook to the first floor windows on the side elevation of The Jays. The side elevation of the proposed dwellings would project approx. 2 metres to the rear of the neighbours first floor bedroom windows which is an acceptable distance as they will be set at least 1 metre away from the common boundary.

- 8.11 The proposed dwelling on Plot 1 will have side windows on the south elevation facing The Jays, serving an office at ground floor and an ensuite at first floor. The Jays is set on slightly higher ground and the brick wall separating the new house and this neighbouring property is sufficiently high enough to protect neighbours' privacy at ground floor level. I have however recommended a condition to ensure that the window on the side elevation at first floor level facing The Jays is obscure glazed and non-opening below 1.7m. As a result, I take the view that the proposal will not lead to an unacceptable loss of privacy for the neighbouring occupiers.
- 8.12 The driveway in-between the two new dwellings will result in a 2.8m separation gap between the units. The proposed dwellings will have side windows at first floor serving the landing and bathrooms. I recommend imposing a condition requiring these windows to be obscure glazed and to open only above eye level to prevent any mutual loss of privacy.
- 8.13 The 3 bedroom dwelling on Plot 1 would provide approx.142m<sup>2</sup> of floor space and the 4 bedroom dwelling on Plot 2 it would provide 180m<sup>2</sup> of floor space. I am satisfied the dwellings are of a sufficient size to meet the minimum gross internal floor areas as set out in the Nationally Described Space Standard. The dwellings will also benefit from a good-sized garden to the rear.
- 8.14 I have also recommended conditions which control construction hours so to protect the amenities of neighbouring occupiers. As a result of the above assessment, I am of the view that the proposal acceptably protects the residential amenities of both existing and future occupiers, in accordance with Policy DM14 of the Local Plan.

#### Highways

- 8.15 The parking area in front of the new houses includes turning space and the shared access has been positioned to maximise the sightlines. KCC Highways are satisfied that the sightlines will be significantly better than the existing arrangement (see detailed comments in paragraph 6.6 above), and as such raise no objections to the development on highway safety grounds.
- 8.16 Policy H8 of the BDNP sets out that new housing should be provided with adequate off-road parking spaces in accordance with the Council's recently adopted Parking Standards SPD. The size of the garage on Plot 2 is slightly less than the current space dimensions recommended in the SPD. Nonetheless, in addition to this, each house will have at least three parking spaces, which meets the current parking standards. Furthermore, an EV charging point will be installed to the front of each house and a cycle shed provided within its rear garden. This would accord with Policy DM7 of the Local Plan.

#### Landscaping

8.17 There will be a small, grassed area in front of the parking area with low level roadside planting, allowing for this area of the site to be softened in appearance. A native hedgerow is also proposed to the side boundaries. I have recommended a landscaping condition which, amongst other matters, will require details of the boundary landscaping to be submitted for approval. On this basis I am satisfied that a landscaping scheme, which will provide for both visual and biodiversity benefits will be secured.

#### Ecology

8.18 The KCC Ecologist recommends a condition requiring an updated ecological survey is carried out if the building is not demolished within 12 months of the date of the PEA. The bird and bat boxes will create bat roosting/bird breeding opportunities within the site and it has been advised that these features are required to be installed as a condition of planning permission. Members will note conditions (19) and (20) below.

8.19 The Biodiversity Net Gain Metric which has been submitted in support of the application demonstrates that a 30% BNG for habitats will be achieved. I have consulted the KCC Ecologist in respect of this who does not agree with the figure that has been provided. Nonetheless they are satisfied that at least a 10% BNG will be achieved which will comply with policy E8 of the BDNP. On this basis, and taking into account the comments of the KCC Ecologist who considers the proposal acceptable, I am of the view that the proposals satisfactorily deals with the requirement for a BNG of 10% set out in the BDNP. The relevant landscaping conditions, which provide the required habitats to secure this BNG have been imposed below.

#### Sustainable design and construction

8.20 The dwellings will be built to a high fabric standard to minimise heat loss from windows, walls, floors, and roofs. The applicant has agreed to the imposition of a pre-commencement condition requiring the new dwellings to be constructed to achieve a 50% reduction in carbon emissions compared to the Building Regulations (2013).

#### SPA Impact

8.21 As Members will be aware, the Council seeks developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA) to address potential harm to the SPA from additional recreational disturbance. The application site is within 6km of the SPA, and as such the Council seeks a mitigation contribution of £275.88 for one (net) new dwelling. This matter will need to be dealt with before any planning permission can be issued.

#### Other Matters

8.22 Dunkirk Parish Council refer to the BDNP in their objection, saying the proposal is contrary to the policies within that plan. I have considered the objectives (as modified by the examiner) for new housing development in the Plan area. These objectives seek new housing development that is of good design, built to achieve a reduction in energy usage, are sympathetic to the street scene and are provided with sufficient off-road parking spaces. As set out above, I consider the proposal represents sustainable development and that the proposed dwellings have been appropriately designed and as such will be in-keeping with

the character of the street scene. The amount of car parking spaces meets the current parking standards. At least a 10% Biodiversity Net Gain will be achieved, and I am therefore of the view that the proposal meets the relevant objectives of the BDNP.

## 9. CONCLUSION

9.1 This site is previously developed land and is located within the Local Plan defined built up area boundary of Boughton where the principle of small scale / infill residential development is acceptable. The proposal will help boost housing supply in the Borough, taking into account that the Council is currently unable to demonstrate a 5 year supply of housing land (the figure stands at 4.83 years).

9.2 The existing building is not considered to be of sufficient architectural or historical interest and I believe the overall scale, design and layout of the proposed development to be acceptable. I am of the view that planning permission should be granted.

10. **RECOMMENDATION - GRANT** Subject to the following conditions and the collection of a SAMMS payment.

### 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 the following approved drawings:

EMA-2022-03-03 Rev 01; EMA-2022-03-04 Rev 01 and EMA-2022-03-05 Rev 01.

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 of the external facing and roofing materials to be used in the construction of the dwellings 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) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works – which shall provide habitat to demonstrate that a minimum biodiversity net gain of 10% will be achieved - 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 enhance or encourage local biodiversity and wildlife), 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.

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

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

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

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

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

Monday to Friday 0730 - 1900 hours, Saturdays 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 0900-1700 hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reasons: In the interests of residential amenity.

- (9) 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.

- (10) 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.

- (11) The areas shown on approved drawing EMA-2022-03-05 Rev 01 as car parking and turning areas 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 and shall be provided prior to the occupation of the dwellings hereby permitted.

Reason: Development without adequate provision for the parking or turning of cars is likely to lead to car parking inconvenient to other road users, and a risk to highway safety.

- (12) The new dwellings hereby permitted shall be provided with one electric vehicle charging point each and no dwelling shall be occupied until the charging point for that dwelling has been installed.

All Electric Vehicle chargers provided must be to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wifi connection). Approved models are shown on the office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:

<https://www.gov.uk/government/publications/residential-approved-chargepoint-model-list>

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

- (13) The new access hereby permitted shall make use of bound surface materials for the first 5 metres of the access from the edge of the highway.

Reason: To ensure that a satisfactory means of access is provided for the site, and in the interests of highway safety and convenience.

- (14) The new dwellings hereby permitted shall each be provided with secure cycle parking facilities in accordance with the approved drawing no. EMA-2022-03-03 Rev 01 and no dwelling shall be occupied until the cycle parking facilities for that dwelling has been installed.

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

- (15) The access to the site shown on the approved drawing no. EMA-2022-03-05 Rev 01 shall be constructed and completed prior to the occupation of the new dwellings hereby permitted.

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

- (16) The visibility splays shown on the approved drawing no. EMA-2022-03-05 Rev 01 shall be provided prior to the occupation of the new dwellings hereby permitted and thereafter maintained clear of any structure, tree, plant, or other obstruction which exceed 0.9 metres above carriageway level within the approved sight lines.

Reason: In the interests of highway safety.

- (17) The proposed WC, utility room, ensuite, landing and bathroom windows on the south and north facing flank elevations of the dwelling on Plot 1 shall be obscure glazed and incapable of being opened except for a high-level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

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

- (18) The proposed WC, hallway and landing window on the south facing flank elevation of the dwelling on Plot 2 shall be obscure glazed and incapable of being opened except for a high-level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

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

- (19) If demolition works have not been completed within 12 months of the date of the Preliminary Ecological Appraisal (Calumma; November 2022) an updated ecological survey must be carried out. The survey and the results of the survey shall be submitted to and approved in writing by the Local Planning Authority prior to any demolition works and the agreed details must inform any emergence surveys and/or mitigation which is required to be carried out prior to and during the demolition works.

Reason: In the interests of conserving protected species.

- (20) Prior to occupation of the new dwellings hereby approved, the two bat and two bird boxes must be erected within the site as detailed within the Proposed Ecology Enhancements. The plans must be retained and maintained for the lifetime of the development.

Reason: In the interests of conserving protected species.

## **INFORMATIVES**

- (1) 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

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

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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

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

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

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

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

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a



financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.

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

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

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

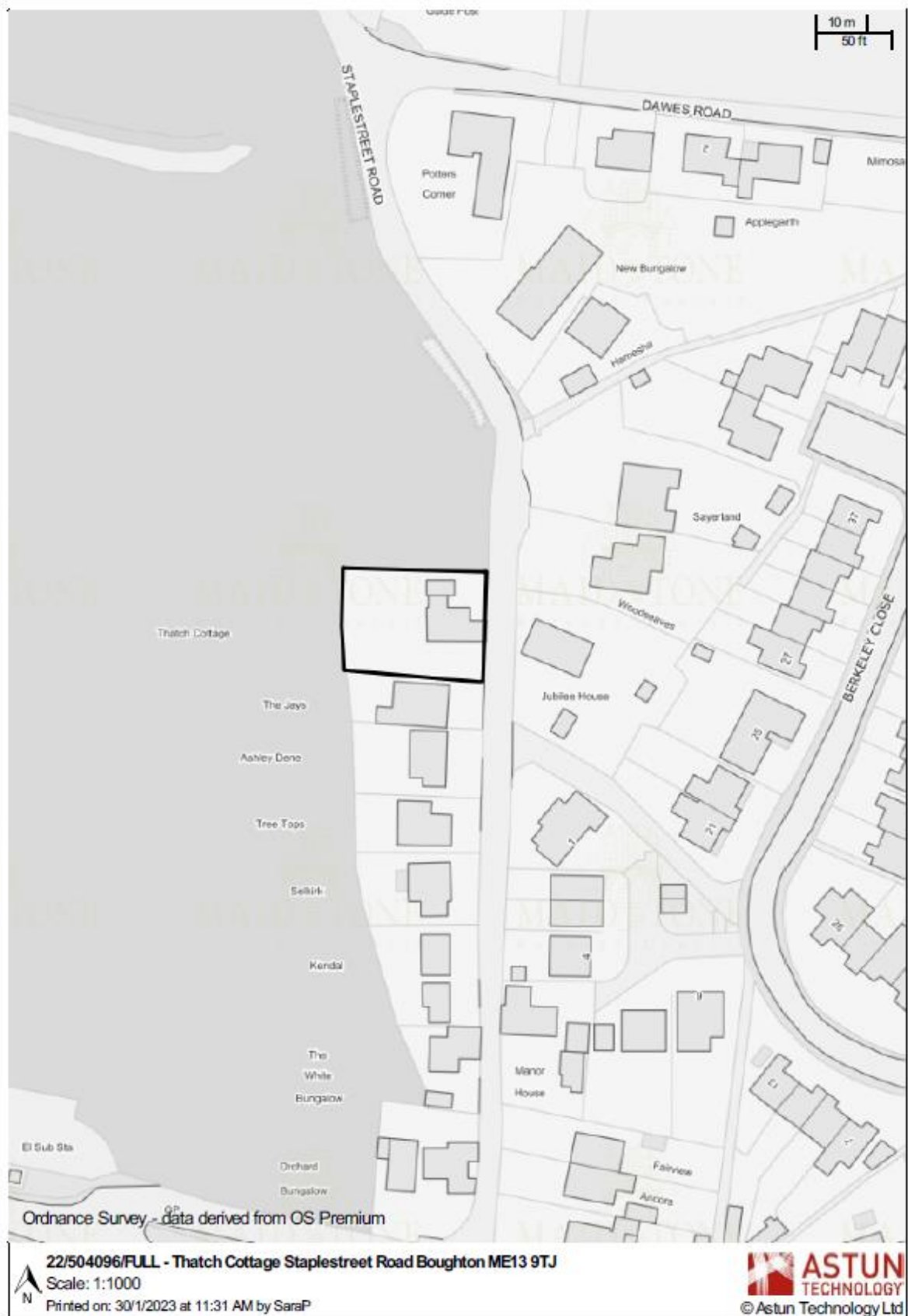
Based on the correspondence with Natural England (via the NKEPG), I conclude that off-site mitigation is required.

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

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

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

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



<b>2.2 REFERENCE NO - 22/500989/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of existing bungalow and outbuilding. Erection of 1 no. detached dwellinghouse and 3 no. detached bungalows with alterations to access and car parking.		
<b>ADDRESS</b> 103 Barton Hill Drive Minster-on-sea Sheerness Kent ME12 3ND		
<b>RECOMMENDATION</b> – That planning permission is Granted subject to conditions and securing SAMMS Payment.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Minster Parish Council object to the application.		
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Mr P Scurfield <b>AGENT</b> Michael Gittings Associates
<b>DECISION DUE DATE</b> 12/05/22	<b>PUBLICITY EXPIRY DATE</b> 28/11/22	<b>CASE OFFICER</b> Emily Clark

**Planning History**

No planning history relevant to this application.

**1. DESCRIPTION OF SITE**

- 1.1 The site is located in the built-up boundary of Minster, the vicinity of the site is predominantly characterised by residential development of varied architectural design and style.
- 1.2 The site itself is a large parcel of land currently in use as a residential garden located to the rear of 103 Barton Hill Drive. There is an existing single storey dwelling on the site which fronts Barton Hill Drive and benefits from a vehicular access from the public highway. There are residential dwellings surrounding the site on all sides from Holyrood Drive, Hilltop Road and Barton Hill Drive.

**2. PROPOSAL**

- 2.1 Planning permission is sought for the demolition of the existing bungalow and the erection of four dwellings.
- 2.2 One dwelling will front Barton Hill Drive, this dwelling will be two storeys with three bungalows being located to the rear. The existing access will be widened and utilised for access to the rear of the plot.

**3. PLANNING CONSTRAINTS**

- 3.1 None.

**4. POLICY AND CONSIDERATIONS**

- 4.1 The development plan consists of the adopted Bearing Fruits 2031: The Swale Borough Local Plan 2017 and policies:

**Policy ST1** Delivering sustainable development in Swale  
**Policy ST2** Development plan for jobs and homes 2014-2031  
**Policy ST3** The Swale settlement strategy  
**Policy ST4** Meeting the Local Plan development targets  
**Policy ST6** The Isle of Sheppey area strategy  
**Policy CP2** Promoting sustainable transport  
**Policy CP3** Delivering a choice of high-quality homes  
**Policy CP4** Requiring good design  
**Policy DM6** Managing transport demand and impact  
**Policy DM7** Vehicle Parking  
**Policy DM14** General Development Criteria  
**Policy DM19** Sustainable design and construction  
**Policy DM21** Water, flooding and drainage

#### Supplementary Planning Guidance

Supplementary Planning Guidance (SPG) entitled ‘Planting on New Developments: A guide for Developers’.

The Council’s adopted Supplementary Planning Guidance (SPG) entitled ‘Parking Standards (May 2020)

## 5. LOCAL REPRESENTATIONS

5.1 Letters were sent to neighbouring occupiers and eight representations were received, objecting to the application on the following grounds: -

- Loss of privacy and increased overlooking
- Increased noise and disturbance
- Reduction of light to gardens and windows
- Destruction of trees and habitats
- Air pollution from cars
- Highways safety concerns with entering and exiting the site due to poor visibility and a busy road
- Impacts on drainage and sewer systems
- Design of two storey property not in keeping
- Development out of character with the area
- Loss of value of property

A 23 signature petition was also received over the course of the application.

5.2 **Minster-On-Sea Parish Council** object to the application, on the following grounds: -

- Over-intensive development
- Not in keeping with street scene
- Inadequate access, parking and impact upon highway
- Impact upon neighbouring amenities

## 6. CONSULTATIONS

**KCC Highways**--No objection, subject to conditions relating to the provision of visibility splays, retention of parking and cycle storage areas and the submission of a Construction Management Plan.

**KCC Ecology**- No objection subject to a condition securing ecological enhancements to the site.

**KCC Flood and Water Management** - No comments to make on this occasion

**Natural England**- No objection subject to securing of the SAMMs payment.

**Environmental Health**-No objection subject conditions securing to the provision of electric charging points, hours of operation and measures for the control of dust.

## 7. APPRAISAL

7.1 The main considerations in the determination of this application are: -

- Principle
- Character and appearance
- Living conditions
- Highway safety
- Biodiversity and Ecology

### Principle

7.2 Policy ST3 of the Swale Local Plan 2017 supports development within the urban confines of towns and local centres in the borough.

7.3 The application site lies within the built-up area of Minster, which is defined as a sustainable location that is suitable for new residential development. As such, the principle is acceptable in accordance with policy ST3 of the Swale Local Plan 2017 and the NPPF subject to the consideration of other material planning considerations.

### Character and Appearance

7.4 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.

7.5 The proposed new dwellings would be situated to the rear of no.103 Barton Hill Drive and would represent back land development. Whilst such development can give rise to unacceptable impacts, I note in this instance that the existing frontage dwelling would be retained and that the site enjoys an unusually large rear garden for the surrounding area. The access would be in a similar position as existing (with some widening / improvement). The development has been designed so that the dwellings to the rear are single storey subservient in scale to the frontage development and they have been designed with modest heights and footprints to ensure that they are not overly prominent

within the streetscene and therefore are considered to have an acceptable impact upon the character and appearance of the streetscene.

- 7.6 Plot 4 will be located within the existing street frontage along Barton Hill Drive. It would be a two storey dwelling, similar in scale to the properties to the north, and is suitably designed to ensure that is not harmful to the character and appearance of the street.

Taking the above into account, the proposal is considered to have an acceptable impact upon the character and appearance of the street subject to conditions requiring the submission of materials and a landscaping. The proposal is considered to accord with policies CP4 and DM14 of the Swale Local Plan 2017 and the NPPF.

### **Living conditions**

- 7.7 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.
- 7.8 Given the separation distance from neighbouring dwellings coupled with the single-storey nature of plots 1-3, it is considered that the proposed development would not have an unacceptable impact upon living conditions of neighbouring property occupiers. However, a condition should be imposed to ensure that alterations to the roof cannot be undertaken under permitted development in the future.
- 7.9 In relation to plot 4, this dwelling will be two storeys with windows located within the rear elevation. It would share a close relationship with no. 101 Barton Hill Drive and be off set from the boundary by approximately 1m. It will have a rear projection of approximately 1.7m at two storey and then a further 1.3m at single storey. Due to the limited projection rearwards coupled with the limited height of the single storey element, the proposal is not considered to be materially harmful to 101 Barton Hill Drive. The dwelling will benefit from first floor rear windows, however, due to the distance of separation from neighbouring dwellings this element of the proposal is considered to be acceptable. The dwelling is sufficiently removed from adjacent neighbour no.107 Barton Hill Drive with garages separating the two as well as a distance of 7m from the shared boundary.
- 7.10 There will be additional vehicles movements along the access road. The closest property to this would be No 107 Barton Hill Drive. However, the main living accommodation to this property is set away from the boundary and given the relatively small scale of development, the vehicular movements will be limited and any impact in terms of noise disturbance is not considered to be materially harmful.
- 7.11 Overall, I consider the proposal would comply with Policy DM14 in terms of impact upon surrounding neighbouring properties.

### **Living conditions of future occupiers**

- 7.12 The proposed dwellings would have a level of internal accommodation that would meet the national space standards. The proposal would also provide sufficient private amenity space for the dwellings and includes secure cycle storage. In light of this it is considered that the proposal complies with policies CP4 and DM14 of the Swale Local Plan and the NPPF.

### **Highways**

- 7.13 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with relevant vehicle parking standards.
- 7.14 The submitted plans show two parking spaces per dwelling along with one visitor parking space, which meets the parking standards set out in the Council's Car Parking Standards SPD. I note that KCC Highways raise no objection to the proposal subject to the inclusion of conditions relating to visibility splays, retention of parking, turning and cycle storage and a construction management plan. These have been included below and as such I consider that the impacts on highways safety and convenience have been acceptably addressed.

### **Ecology**

- 7.15 The application includes a preliminary ecology appraisal, which sets out that the development would not give rise to unacceptable impacts on biodiversity. KCC Ecology raise no objection to the development subject to precautionary conditions to protect hedgehogs and secure ecological enhancements. On this basis I consider the development would not cause any unacceptable harm to biodiversity and would accord with Policy DM28 of the Local Plan.

### **Impact on the Special Protection Area (SPA)**

- 7.16 I have for completeness set out an Appropriate Assessment below. 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 £275.88 per dwelling. The applicant has agreed to pay this fee.

### **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 onsite 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 offsite 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 not 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.



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/>).

## 8. CONCLUSION

- 8.1 In summary, the site is suitably located for additional residential development and is capable of accommodating three new dwellings and one replacement, along with adequate parking and outdoor amenity space. For the reasons set out above the proposal is considered to have an acceptable impact upon the character and appearance of the street and the living conditions of adjoining dwellings. The proposal is considered to accord with policies ST3, CP4, DM7 and DM14 of the Swale Local Plan 2017 and the NPPF. It is therefore recommended that planning permission for the proposal be granted subject to suitable safeguarding conditions.

## 9. RECOMMENDATION

That planning permission is GRANTED subject to securing the SAMMS mitigation payment and the following conditions:

### CONDITIONS to include

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 shall be carried out in accordance with the following approved plans numbered 2486/3/C Proposed Block Plan; 2486/4/A Plot 1, 2 and 3 Floor Plans and Elevations; 2486/6 A Plot 4 Proposed Floor Plan and Elevations.

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

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); Construction of the dwelling hereby approved shall not take place until details of the measures to be undertaken to secure compliance with this condition have been submitted to and approved 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. Before the commencement of any development on the site a Construction

Management Plan shall be submitted which includes the following:

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

Reason: In the interests of highways safety and convenience.

5. No development shall take place, including any works of demolition, until a dust management plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved plan shall be adhered to throughout the construction period.

Reason: In the interest of residential amenity.

6. Within 3 months of planning permission being granted, 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 hedgehog highways and provision of native planting. The approved details shall be implemented prior to first occupation of the development and thereafter retained.

Reason: In the interests of ecology and biodiversity enhancement.

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 should be native species and of a type that will enhance or encourage local biodiversity and wildlife), 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.

9. The development shall be carried out in accordance with the recommendations

for the protection and mitigation of wildlife as set out in chapter 4 of the Preliminary Ecological Appraisal by KB Ecology.

Reason: In the interests of biodiversity.

10. 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.

11. 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.

12. The visibility splays as shown on the submitted plan (1332-SK07) shall be provided prior to the first occupation of any dwelling with no obstructions over 0.6 meters above carriageway level within the splays, and shall be maintained as such thereafter.

Reason: In the interests of highways safety and convenience.

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

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

14. The cycle parking facilities as shown on the submitted plan (2486/3/C) shall be provided prior to first occupation of any dwelling hereby permitted and retained for such purposes thereafter.

Reason: In the interests of highway safety and convenience.

15. The Electric Vehicle chargers shown on the submitted block plan must be provided to Mode 3 standard (providing up to 7kw) and installed prior to the occupation of any dwelling. Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved charge point 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.

16. Before the development hereby permitted is first used, the ground floor side windows on Plots 1, 2 and 3 serving bathroom shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows shall be incapable of being opened except for a high-level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

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

17. 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.

18. 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 not 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.

19. Upon completion, no further development, whether permitted by Classes B or C 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 on Plots 1, 2 and 3.

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

## 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 defence against prosecution under this act.

Trees and buildings are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and buildings are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

(2) In the event of a recommendation for approval adequate and suitable measures shall be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

(3) Informative: 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

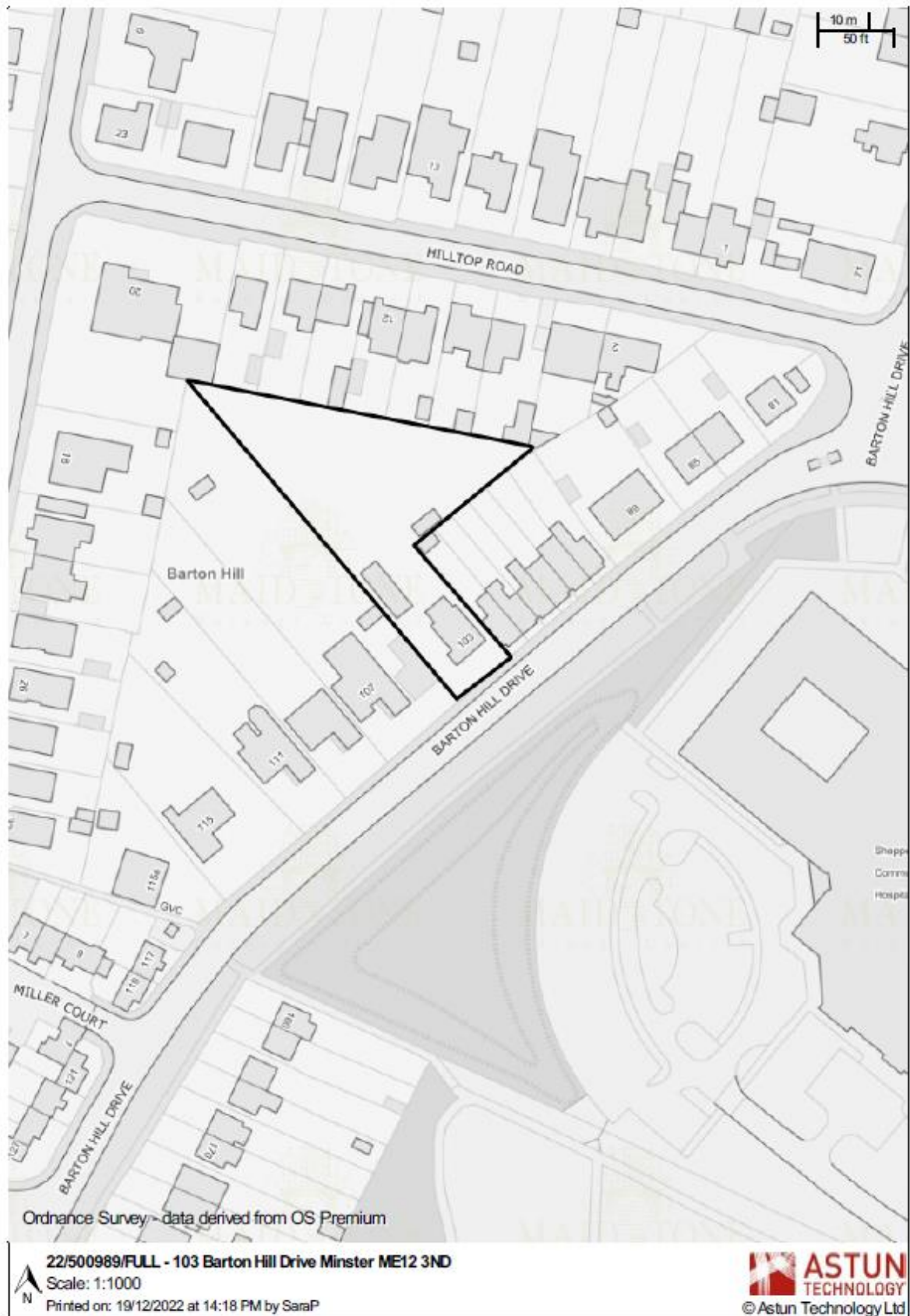
### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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

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



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<b>2.3 REFERENCE NO - 22/504805/FULL</b>		
<b>APPLICATION PROPOSAL</b> Conversion of existing committee room to disabled toilet, and creation of new entrance to west elevation to facilitate access for wheelchairs and mobility scooters, including creation of an access ramp.		
<b>ADDRESS</b> Rushenden Club Rushenden Road Queenborough Kent ME11 5JZ		
<b>RECOMMENDATION</b> That planning permission is Granted subject to conditions		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The applicant is a Councillor.		
<b>WARD</b> Queenborough And Halfway	<b>PARISH/TOWN COUNCIL</b> Queenborough	<b>APPLICANT</b> Cllr Peter Marchington <b>AGENT</b>
<b>DECISION DUE DATE</b> 24/01/23	<b>PUBLICITY EXPIRY DATE</b> 03/01/23	<b>CASE OFFICER</b> Emily Clark

**Planning History**

SW/12/0305

Erection of replacement perimeter fencing 1.2metres in height for car park, west elevation and gates and 2 metre high fencing along grounds to the south.

Grant of Conditional PP Decision Date: 28.05.2012

SW/90/0301

Single storey extension to existing community hall

Grant of Conditional PP Decision Date:

SW/88/0332

Entrance hall

Approved pre 1990 Decision Date: 02.06.1988

SW/85/1034

Extension to form beer store and general store and bar extension

Approved pre 1990 Decision Date: 11.12.1985

SW/80/1436

Erection of community centre

Approved pre 1990 Decision Date: 20.01.1981

**1. DESCRIPTION OF SITE**

1.1 The application site consists of a single storey building that is situated just off Rushenden Road within the built up area boundary. The building is used as a community hall. The main entrance is located to the north elevation with a car park and a grassed area to the side and rear. The building is currently rendered with white UPVC windows. The rear of the site is enclosed with 1.8m close boarded fencing with lower fencing on the boundary adjacent to Rushenden Road.

## 2. PROPOSAL

- 2.1 Planning permission is sought for the conversion of an existing committee room to disabled toilet, and the creation of a new entrance to the west elevation to facilitate access for wheelchairs and mobility scooters, including creation of an access ramp.

## 3. PLANNING CONSTRAINTS

- 3.1 None.

## 4. POLICY AND CONSIDERATIONS

- 4.1 The development plan consists of the adopted Bearing Fruits 2031: The Swale Borough Local Plan 2017 and policies:

**Policy ST3** The Swale settlement strategy

**Policy CP4** Requiring good design

**Policy CP6** Community facilities and services to meet local needs

**Policy DM14** General development criteria

**Policy DM16** Alterations and extensions

**Policy DM19** Sustainable design and construction

## 5. LOCAL REPRESENTATIONS

- 5.1 No local representations received.

## 6. CONSULTATIONS

- 6.1 **Queenborough Town Council** support the application. No reasons were provided.
- 6.2 **KCC Highways:** advise that the development falls outside their criteria to comment.
- 6.3 **Environmental Protection Team:** no objections.

## 7. APPRAISAL

- 7.1 The main considerations in the determination of this application are: -

- Principle of development
- Character and appearance
- Impacts on neighbouring amenity
- Highway and access

### **Principle**

- 7.2 Policy ST3 of the Swale Local Plan 2017 supports development within the urban confines of towns and local centres in the borough.
- 7.3 The application site is located within the built-up area boundary of Queenborough, and the application relates to the enhancement of disabled access facilities in association with a community facility. Policy CP6 of the Local Plan seeks to safeguard existing community facilities, and I consider that this would support the ongoing function and use

of this community facility. Therefore, given the nature of the application and the site location, the principle of development is supported in policy terms, subject to the application fulfilling the other policy requirements set out below.

### **Character and appearance**

- 7.4 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.
- 7.5 The alterations are minor, but are visible from Rushenden Road adjacent to the application site. There are a number of window and door openings already present on the west elevation. The additional door proposed makes very little difference to the appearance of the building and causes no visual harm. Likewise the proposed ramp is very minor in nature, being raised approx. 75mm from existing ground level, and the low supporting wall adjacent to the ramp is similarly small in scale and height, at between 0.5m and 1m in height.
- 7.6 Overall, the proposed external works are very modest in scale and I do not consider that there would be any notable change to the appearance of the building or harm to visual amenity. The internal conversion works described in the application do not require planning permission, only the external alterations.

### **Impact on neighbouring amenity**

- 7.7 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.
- 7.8 In view of the nature of the development, and the distance from neighbouring properties, the proposal would not impact the living conditions of neighbouring properties.

### **Highways and access**

- 7.9 The proposed development would not impact the existing parking arrangement for the club and would make the facility more accessible to disabled persons.

## **8. CONCLUSION**

- 8.1 The works to improve disabled access to this community facility are minor and would support the ongoing function of the club without causing harm to neighbouring or visual amenity. As such the development is in line with Policies CP4, CP6 and DM14 of the Local Plan and I recommend approval.

## **9. RECOMMENDATION**

That planning permission is GRANTED 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 in accordance with the following approved plan: RCH10 Proposed South Elevation; RCH2 Rev A Proposed Block Plan; RCH6 Rev A Proposed Floor Plan; RCH7 Proposed Layout Plan; RCH9 Proposed North Elevation; RCH8 Rev A Proposed West Elevation.

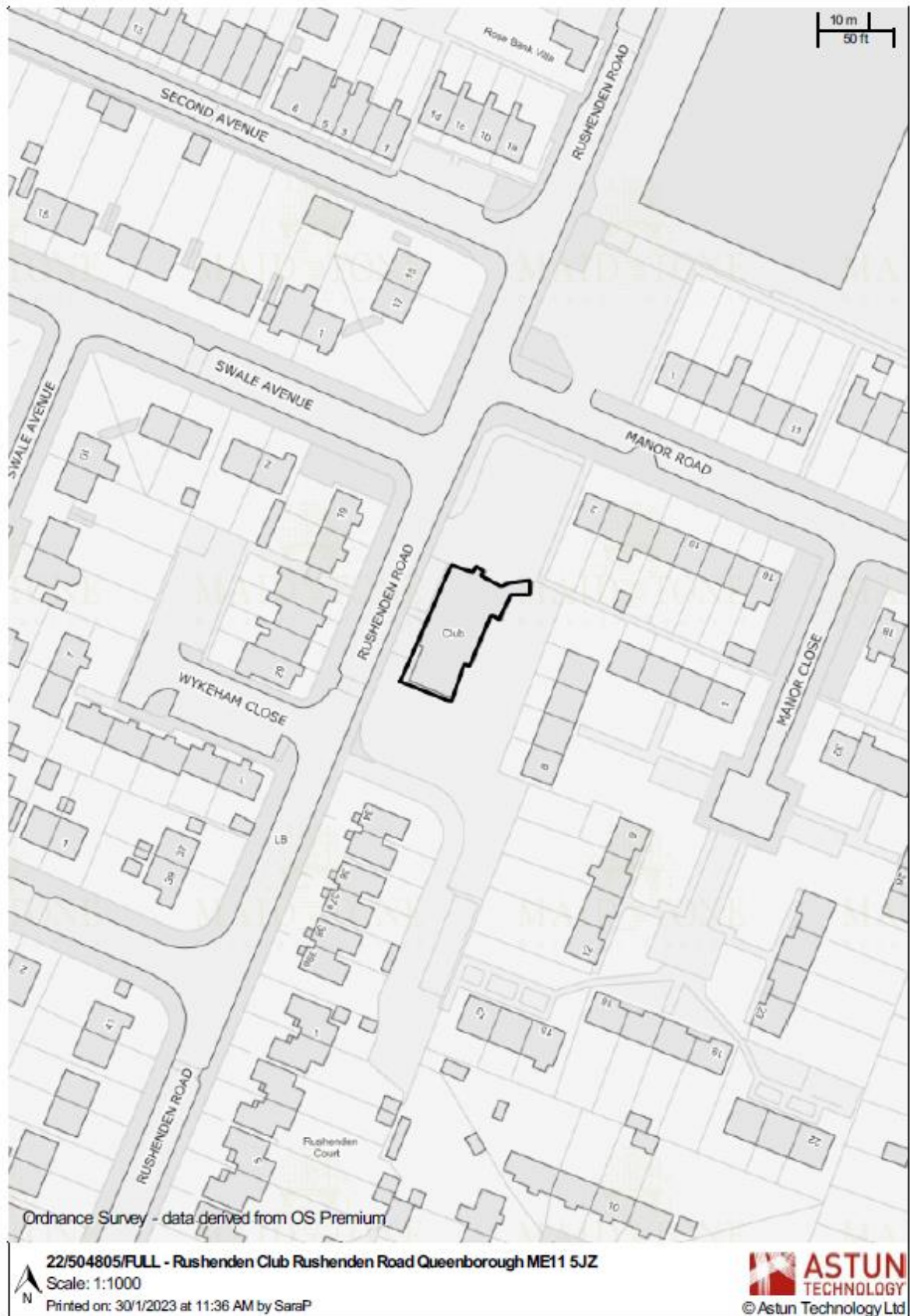
Reason: For the avoidance of doubt and in the interests of proper planning

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

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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



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<b>2.4 REFERENCE NO - 22/505611/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Erection of 2no. four-bedroom detached dwellinghouses and 1no. detached garage with associated front canopy, fencing, gates, access and parking (Revision of Planning Application ref: 21/506474/FULL)		
<b>ADDRESS</b> Burntwick The Street Upchurch Kent ME9 7EU		
<b>RECOMMENDATION</b> that planning permission is Granted, subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
This is a revision to a development for two dwellings permitted under 21/506474/FULL by the Planning Committee last year. As such the principle of residential development has been accepted. The revisions proposed under the current application are not considered to harm the character and appearance of the Upchurch Conservation Area or the setting of St Mary's Church, and the development would not cause undue harm to the living conditions of surrounding residential properties. Although the site lies outside the village confines of Upchurch, in light of the lack of a 5 year housing supply and engaging paragraph 11 of the NPPF, the development is considered acceptable.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Councillor Palmer has requested that the application should be called in to the Planning Committee		
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN COUNCIL</b> Upchurch	<b>APPLICANT</b> Mr Steve Straight <b>AGENT</b> Mark Carter Associates
<b>DECISION DUE DATE</b> 20/01/23	<b>PUBLICITY EXPIRY DATE</b> 25.01.2023	<b>CASE OFFICER</b> Rebecca Corrigan

### Planning History

21/506474/FULL - Erection of 2no. four bedroom semi-detached dwellings and 1no. detached garage, with associated fencing, gates, access and parking. Approved 12/08/22

SW/87/0760 – Erection of a house – Approved 29/07/87

SW/86/1292 – Outline application for the erection of a 4 bed house – Approved 13/01/87

### 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 Members will be familiar with this site as this is a revised proposal of an application (ref: 21/506474/FULL) which was originally presented to Planning Committee on 23 June 2022. The application was deferred for a site meeting which took place on 11<sup>th</sup> July 2022, and the application was reported back to committee on 21<sup>st</sup> July 2022 and approved.
- 2.2 The permitted scheme was for the erection of two semi-detached houses, together with associated hard and soft landscaping works. During the course of the application, the original proposal for two detached dwellings has been amended to incorporate a pair of semi-detached dwellings, primarily to move the development further from the boundary with neighbouring properties.
- 2.3 This revised scheme proposes the separation of the pair of semi-detached properties to create two detached dwellings, including changes to the roof design and changes to the treatment of the front and rear fenestrations. The main changes are set out as follows:
- As the proposed dwellings would be detached, a gap of 1250mm has been introduced between the dwellings to separate the buildings, thus drawing the building line of Plot 2, 1250mm closer to the boundary of no.21 The Street and properties at The Poles, to the northeast.
  - The approved semi-detached dwellings incorporated a hipped roof profile. This revised scheme originally incorporated a barn hip design to each proposed dwelling. Following discussions with the agent, the roof design of plot 2 closest to the side boundary has been amended back to a hipped design. Nonetheless, the eaves height of the side flank would increase from 4.3m to 5m, although the ridge height would remain as approved at 7.7m.
  - For plot 1, a barn hip is proposed on the northeast side of the dwelling. The ridge height of the dwelling will remain as approved (7.7m) however the eaves height of the side flank will increase from 4.3m to 6.6m to accommodate the alteration to the roof.
  - The front gable feature on both dwellings is taller and incorporates different materials on part of the first floor elevation. In addition, some windows have been altered in shape. Due to the changes to the bay projection the front porch is positioned higher to allow the window to the staircase to be totally visible on the front elevation to allow more light.
  - Removal of rooflights within the roofslope
- 2.4 Both the original proposal (ref: 21/506474/FULL) and this revised submission remain the same in internal size in that 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 Outside of the built-up area boundary
- 3.2 Adjacent to Upchurch Conservation Area boundary



- 3.3 Within the setting of a listed church
- 3.4 SSSI Impact Risk Zone
- 3.5 Swale Explosives Sites
- 3.6 Area of Archaeological Potential

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

##### 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 SPD 2020

##### Other relevant documents

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

Upchurch Conservation Area Appraisal

#### 5. **LOCAL REPRESENTATIONS**

5.1 A total of seven representations have been received during the application process. Of these, six raised objection and one has been received neither objecting to nor supporting the proposal. The issues raised are summarised as follows -

- Intensified use of the access and lack of site lines are harmful to highway safety
- Request for a further site visit
- Width of the access shown as incorrect
- Impact on access to the village hall, particularly during the construction phase
- Impact on water supply/sewage pipe serving the village hall
- Decrease in residential amenity

- Loss of privacy
- Loss of outlook
- Overbearing impact due to raised ground levels
- The previous scheme was amended from detached dwellings
- The dwellings would be closer to neighbouring boundaries.

## 6. CONSULTATIONS

**KCC Minerals and Waste** – No objection

**KCC Flood and Water Management** – No comment, falls outside of their consultation criteria

**Health and Safety Executive** – No comment to make on the planning application provided that the development is not classed as a 'vulnerable building'.

**KCC Highways** – Falls outside of their remit for comment.

## 7. APPRAISAL

### Principle of Development

- 7.1 This is a revised application to the scheme permitted by the planning committee under 21/506474/FULL. As a result of this recent permission, the principle of residential development at this location has been determined to be acceptable. Although sited outside the village confines and within the countryside under the Council's settlement strategy set out in Policy ST3 of the Local Plan, the site lies immediately adjacent to and near the centre of the village and within the curtilage of an existing residential dwelling and surrounded by built form on all sides. For this reason, the development of two dwellings in this location would not erode or impact upon the character and appearance of the countryside surrounding the village in a materially harmful way. The proposal was also considered to boost the local housing supply in the area and was likely to benefit the rural economy during the construction phase by providing employment opportunities, all of which still apply.
- 7.2 As the Council cannot demonstrate a 5 year housing supply (the updated position is now a 4.83 year supply), the benefits of the proposal were previously considered to outweigh the very limited harm to the countryside and the principle of carrying out development on the site was considered acceptable. In this instance, as the scheme is only proposing minor design changes and remains a scheme for two dwellings, Officers consider the principle of development at this site remains acceptable.

### Character and Appearance

- 7.3 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.
- 7.4 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.

- 7.5 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.
- 7.6 As stated above, the application has been revised to provide two detached dwellings at the site rather than a pair of semi-detached properties. To facilitate the change, a gap of 1250mm has been introduced between the dwellings. No changes are proposed to the ridge height, however, there would be an increase to the eaves height on the gable side (north east side) of both properties to accommodate the altered roof design. The application also proposes minor design changes to the fenestration of the dwellings as set out above.
- 7.7 Having considered the amendments proposal as part of this application, the two dwellings remain acceptable in the site context. Whilst the previous semi-detached design was more reminiscent of the form of the existing dwelling on site, the proposed detached dwellings are more coherent in design and form and discreetly positioned on a backland plot. Taking into account the mixed character of the area, with detached, semi-detached and terraced units in the near vicinity, Officers do not consider the detached dwellings would appear out of place in the context of the wider area.
- 7.8 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 a landmark building and important community facility in the centre of the village.
- 7.9 With regards to the potential impact of the development upon the significance of these designated heritage assets, the changes are minor in the context of the development proposed. The dwellings remain sited in a discreet location within the garden plot which currently serves Burntwick. The properties remain sited behind the properties along The Street and The Poles and the changes would not detrimentally impact any important views leading into the Conservation Area. The Design and Conservation Manager has advised that the proposed revised design is acceptable, noting that the improved and more coherent elevational design of the detached dwellings now proposed outweighs the benefits of the previous semi-detached form of the development and as such raises no objection to the proposal.
- 7.10 In light of the above, the proposed changes to the previously approved scheme are not considered to cause any harm to heritage assets or wider visual amenity perspective, and would be in accordance with the above policies.

#### Living conditions

- 7.11 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.

- 7.12 Members will recall that in considering the previous scheme, concern had been raised about the effect of the development on surrounding properties, and that this was also considered during the Members site visit. The proposal would bring the dwelling at plot 2 slightly closer to the boundary by approx. 1.25m with 21 The Street and properties at The Poles. It is also noted that some properties are set at a lower level to the application site. Nonetheless, the side elevation of plot 2 would be set 7.5m from the flank wall of No 21, and approx. 26m from the rear of properties at The Poles, The rear elevation would be approx.. 25.5m from No 21 The Poles. The agent has also amended the roof design of plot 2 to revert from a gable to a hipped roof, to reduce the impact on neighbours.
- 7.13 Whilst plot 2 would be slightly closer to the side boundary than the approved scheme, and the eaves height would be slightly taller, Officers do not consider this would be likely to cause unacceptable impacts on the living conditions of neighbouring properties. The development passes the “simple” daylight and sunlight 45° and 25° tests as set out in the BRE daylight and sunlight guidelines, which are commonly applied to assess such impacts. Furthermore, the applicant has submitted a more technical daylight and sunlight assessment based upon the same BRE guidelines which demonstrates that there would be no unacceptable impacts on surrounding properties (it should be noted that this test was undertaken when the proposal included a gable roof to Plot 2, which has since been amended to a hipped roof and which would improve the relationship with neighbouring properties)
- 7.14 Taking the above factors into account, Officers do not consider that the development would cause any undue impacts upon living conditions, and it would accord with Policy DM14 of the Local Plan.

#### Highways and Parking

- 7.15 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with adopted vehicle parking standards.
- 7.16 No changes are proposed to highways and parking. The 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.
- 7.17 Officers note under the previous application that KCC Highways recommended a condition relating to visibility splays at the entrance to the site and a condition relating to a construction traffic management plan to be added to any future consent to reduce the potential for congestion. Accordingly, these conditions have been included below.

#### Other Matters

7.18 Matters relating to Trees, Biodiversity and Archaeological Potential remain as per the assessment of the approved scheme and for this reason I do not consider it necessary to repeat this information again.

7.19 SAMMS - 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). I note that a SAMMS mitigation fee has already been paid for the new dwellings and will equally apply to this scheme, and as such would mitigate the impacts on the SPA in accordance with the council's standard procedure.

## **8. CONCLUSION**

8.1 This is a revised application of planning reference 21/506474/FULL which was approved by planning committee last year. Under the original application, the principle of residential development at this location was considered acceptable in light of the lack of a 5 year housing supply and application of paragraph 11 of the NPPF, and this remains to be the case. The amendments sought under this application are minor and officers are satisfied that these amendments would cause any unacceptable impacts upon the visual or residential amenities of the area, surrounding heritage assets or wider visual amenity.

## **9. RECOMMENDATION**

That planning permission is GRANTED subject to 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: 3319-005, 3319-006, 3319-014 & 3319-015 Rev A

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.

### Highways

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

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

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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

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

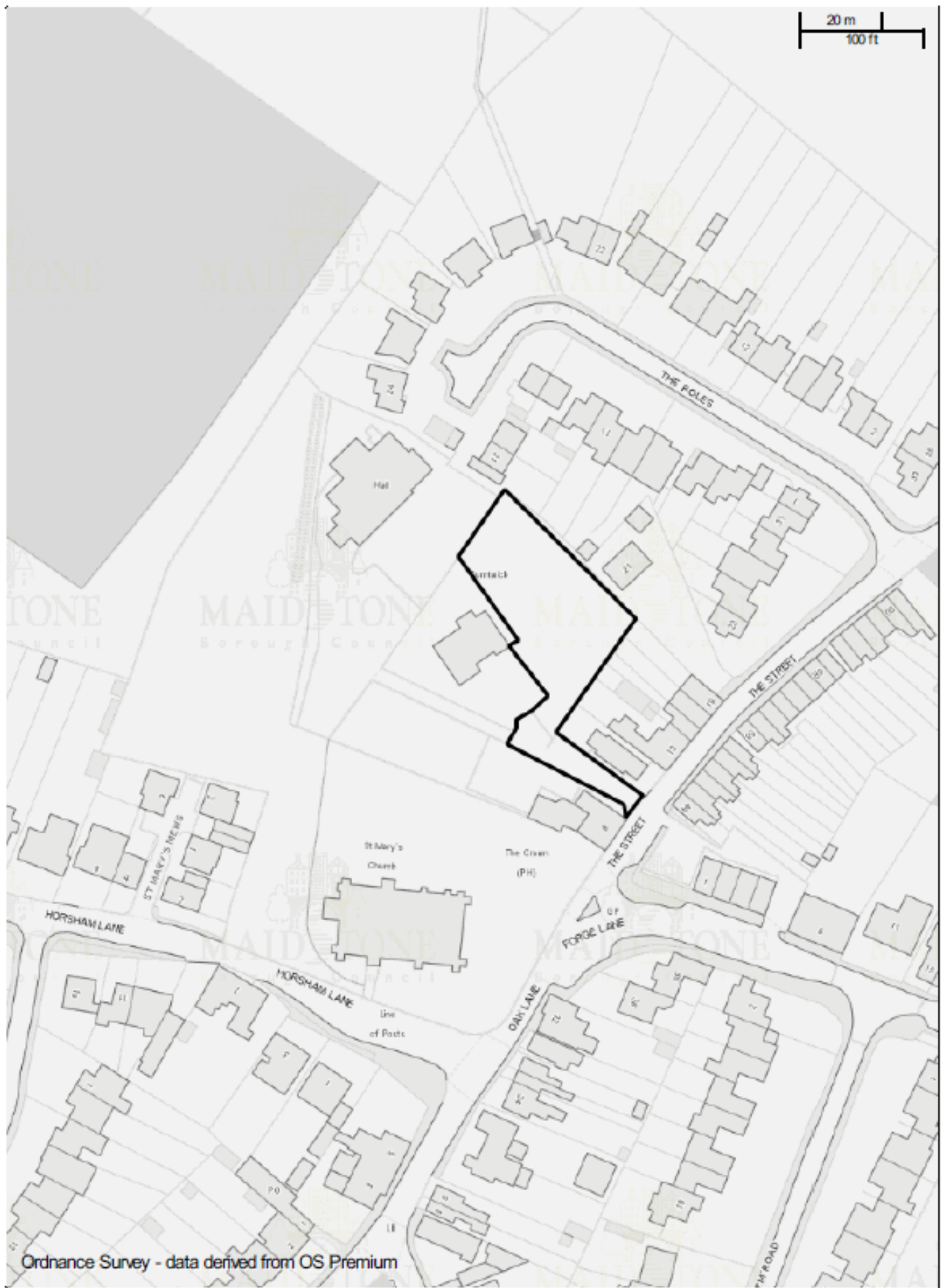
### **Appropriate Assessment**

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 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.

In this instance, the aforementioned financial contribution has already paid for these dwellings and therefore satisfactory mitigation has been provided.



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**PLANNING COMMITTEE – 9 FEBRUARY 2023****DEFERRED ITEM**

Report of the Head of Planning

**DEFERRED ITEMS**

Reports shown in previous Minutes as being deferred from that Meeting

<b>3.1 REFERENCE NO - 21/502256/OUT</b>		
<b>APPLICATION PROPOSAL</b>		
Outline Application with all matters reserved to determine the principle of residential development of up to 64 No 3 and 4 Bedroom dwellings of 1 storey, 1 and half storey, 2 storey, and 2 and half storey dwellings with all associated parking, infrastructure and landscape amenity spaces.		
<b>ADDRESS</b> Land North East Of Nelson Avenue Minster-On-Sea Sheerness Kent		
<b>RECOMMENDATION</b>		
An appeal has been submitted against non-determination of this application (Ref: APP/V2255/W/22/3313783) and it cannot now be formally determined by the Council. However, Members need to determine whether the application would have been approved if it was still before them, or on what grounds they would have refused planning permission. This will then form the basis of the Council's case regarding the development, for the purposes of the appeal.		
It is recommended that Members resolve that had the application not been subject to an appeal it would have been refused for the two putative reasons set out at section 10 below.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b>		
As above		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
As above		
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Mr Michael Piper <b>AGENT</b> Kent Design Partnership
<b>DECISION DUE DATE</b> 18/08/21	<b>PUBLICITY EXPIRY DATE</b> 02/06/2022	<b>CASE OFFICER</b> Jim Wilson

**Planning History**

SW/06/0627

Change of use of land to house &amp; graze horses and erection of two stable block and pole barn (retrospective).

Grant of Conditional PP      Decision Date: 25.08.2006

**Adjacent Site**

There is a planning application for up to 100 dwellings on the land immediately to the east of this site. For completeness, the details of that application are:

*20/504408/OUT - Outline application for residential development of up to 100 no. dwellings (Access being sought with all other matters reserved) APPEAL DISMISSED*

An appeal was been submitted against non-determination of this application (Ref :APP/V2255/W/22/3298959). A report was reported to the 21<sup>st</sup> July 2022 Planning Committee recommending refusal reasons to support the appeal. These refusal reasons were agreed by Members.

An appeal hearing was held on 14<sup>th</sup> September 2022, and an appeal decision dismissing the appeal was issued on 5<sup>th</sup> October 2022. This is attached as Appendix 1.

## **1. DESCRIPTION OF SITE**

- 1.1 The site is an area of some 4.3ha of agricultural farmland, with some areas for grazing paddocks, located outside the settlement boundary of Minster-on-Sea in the open countryside. It is unallocated land.
- 1.2 There is a steep gradient on the site: it slopes downwards from north to the southern end of the site, in a downwards gradient of approximately, which gives the site a strong, rolling countryside appearance.
- 1.3 Immediately to the west of the site are grazing paddocks, beyond this are residential properties on Scocles Road, to the south of the site are the rear gardens of Nelson Avenue. To the north of the site lies public footpath ZS8 which follows the northern boundary of the site, beyond the public footpath there are grazing paddocks and Minster Cricket Club Sports Ground to the north-east. To the east are open fields, beyond an existing mature hedgerow.
- 1.4 Although the southern boundary of the site connects to the rear gardens of Nelson Avenue, albeit separated by mature hedging and fencing, there are a number of green fields surrounding the site to the north, east and west. It is in this context, that the site appears not to be connected to the existing urban area.
- 1.5 There is a Lower Medway Internal Drainage Board (L.M.I.D.B) surface water drainage ditch which runs parallel and immediately adjacent to the southern boundary within the site before discharging via a headwall into a piped outfall route in a southerly direction crossing beneath both Nelson and Drake Avenues before discharging to existing drainage ditches in farmland to the south.
- 1.6 The site boundary is distinguished by mature hedgerow on the eastern and northern boundaries, with a mix of hedgerows and residential fences along the southern boundary, and low grazing paddock fencing to the west.
- 1.7 There are heritage assets to the north of the site. These are the Grade I listed C12 Minster Abbey and the grade I listed gatehouse with 49 Chapel Street being a Grade II listed building, and Minster Abbey is a Scheduled Monument.
- 1.8 There is no current vehicular access to the site due to its location behind Nelson Avenue & Scocles Road.
- 1.9 The site is not subject to a landscape designation nor is it located in an Important Countryside Gap.

## 2. PROPOSAL

- 2.1 The application seeks outline planning permission (with all matters reserved) to determine the principle of residential development of up to 64 No 3 and 4 Bedroom dwellings of 1 storey, 1 and half storey, 2 storey, and 2 and half storey dwellings with all associated parking, infrastructure and landscape amenity spaces.
- 2.2 The application has been supported by an indicative and illustrative plans, including an indicative site development layout; illustrative street elevations; illustrative site sections; storey heights drawing; ridge height diagram; constraints and opportunities diagram.
- 2.3 The indicative details show that the proposed vehicular access would be via a priority junction that would be achieved via the removal of a single storey dwelling along Nelson Avenue known as Pandora. A secondary route for pedestrians, cyclists and emergency vehicles is shown from Scocles Road between 39 and 41 Scocles Road.
- 2.4 The dwellings are shown around four central quadrants of perimeter blocks, as well a North-South linear row on the western and eastern boundaries. An area of open spaces is shown in the northern part of the site, with an attenuation pond along the southern part of the site.
- 2.5 The indicative storey heights plan shows that there would 8 x 1 storey dwellings; 15 x 1 ½ storey dwellings; 25 x 2 storey dwellings; and 16 x 2 ½ storey dwellings. The dwellings in the northern part of the residential area (to north of central access road) would be primarily 1 storey or 1 ½ storeys in height, with three 2 ½ storey units. In the southern part of the residential area (to the south of the central access road) the units would be primarily 2 storey and 2 ½ storey, with two 1 ½ storey dwellings adjacent to the pedestrian/cycle/emergency route. A corresponding ridge heights drawing has been provided with the ridge height for each dwelling type being; 6.2m for 1 storey dwellings; 7.6m for 1 ½ storey dwellings; 8m x 2 storey dwellings; and 9.2m x 2 ½ storey dwellings.

## 3. PLANNING CONSTRAINTS

- Outside the settlement boundary
- Within 6KM Buffer for SAMMS Strategy
- Public Right of Way ZS8 is situated adjacent to the north and north-eastern boundary
- Flood Zone 1: An area with a low probability of flooding
- Agricultural Land Classification: Grade 3
- Within proximity of the following Listed Buildings:
  - Grade I: The Abbey Church of St Mary and St Sexburga (list entry: 1273489)
  - Grade I: The Abbey Gatehouse (list entry: 1258332)
  - Grade II: 49 Chapel Street (list entry: 1258068)
- Adjacent to an area of Local Green Space (DM18)
- Within proximity to a Scheduled Monument (DM34) (the Abbey)

## 4. POLICY AND CONSIDERATIONS

- 4.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017
- 4.2 **ST 1** Delivering sustainable development in Swale  
**ST 2** Development targets for jobs and homes 2014- 2031

- ST3** The Swale settlement strategy
- ST4** Meeting the Local Plan development targets
- ST 6** The Isle of Sheppey area strategy
- CP 1** Building a strong, competitive economy
- CP3** Delivering a wide choice of high quality homes
- CP 4** Requiring good design
- CP 6** Community facilities and services to meet local needs
- CP 8** Conserving and enhancing the historic environment
- DM 7** Vehicle parking
- DM 8** Affordable Housing
- DM 14** General development criteria
- DM 18** Local Green Spaces
- DM 19** Sustainable design and construction
- DM 20** Renewable and low carbon energy
- DM 21** Water, flooding and drainage
- DM 24** Landscape
- DM 28** Biodiversity and geological conservation
- DM 29** Woodlands and Trees
- DM 31** Agricultural Land
- DM 32** Development involving listed buildings
- DM 34** Scheduled Monuments and archaeological sites

Supplementary Planning Documents:

Developer Contributions (2009); Parking Standards (2020)

Swale's Landscape Character and Biodiversity Appraisal (2011) & Swale Landscape Assessment (2019)

## **5. LOCAL REPRESENTATIONS**

- 5.1 Letter were sent to neighbouring occupiers; a notice was published in the press and a site notice was displayed in the vicinity of the site. In response 69 objections were received and can be summarised as follows:



- Increased traffic and congestion on Elm Lane, Nelson Avenue and Scocles Road, Lower Road
- Nelson Avenue used as a rat run
- Insufficient capacity on local road network and wider road network (A249 and M2 J5)
- There have been traffic accidents on Scocles Road and Elm Lane
- Traffic monitoring not accurate – it was carried out during lockdown
- Nelson Avenue not suitable for a new vehicular access (for residential use; and for construction traffic)
- Highways safety risk – insufficient lighting for walking; narrow roads
- Poor public transport links
- Reduction in parking on Nelson Avenue from proposed access & yellow lines.
- Concerned the access would serve this site, and the proposed 150 dwellings off Elm Lane
- Bearing Fruits Plan 3.1.5, Lower Road is at CAPACITY and cannot support any more cars without MAJOR investment. Lower Road often gridlocked after an accident.
- Increased flooding issues – Nelson Avenue is very vulnerable to water run off, and floods at the bottom of the hill
- Existing surface water drains and culverts are inadequate resulting in flooding
- Sewerage capacity concerns
- Loss of green fields/spaces and views
- Destruction of landscape
- Should build on brownfield sites
- Loss of horse grazing land for riding school, causing it to close.
- This development should be looked at in the context of the two other neighbouring planning application at Nelson Avenue and Scocles Road
- Loss of wildlife
- Wildlife diverse on the site including bats, kestrels, buzzards, and sparrow hawks. There are foxes, hedgehogs, Woodpeckers, countless bird species including skylarks, swallows, swifts, crows, ravens, house sparrows etc. There are frogs and newts that migrate to different ponds from that field.
- Impact on people's mental well-being
- Will put pressure on GPs -9,000 people have been told to register with Sittingbourne medical practices.
- Schools over capacity
- Overshadowing to properties on Nelson Avenue
- Loss of privacy and overlooking to properties on Nelson Avenue
- Harmful outlook from properties on Nelson Avenue
- Harmful impact to amenity from noise, traffic, dust, construction traffic, vehicle lights on access
- Loss of peace and tranquility to properties on Nelson Avenue
- Increased pressure on infrastructure on Isle of Sheppey; eg. hospitals, GP practices, schools, dentists
- Lack of infrastructure of Isle of Sheppey
- Limited shops and amenities in the area
- Lack of jobs on Isle of Sheppey
- Harmful impact on footpath/bridalway as will change from field to a concrete path
- Site used as open space for walkers, dog walkers, families etc.
- Overdevelopment of the area
- Proposal is for 3 & 4 bedroom home, whereas local needs is for smaller family homes
- Proposal should include bungalows, landscaped areas with parkland
- Increased air pollution and harm to health
- Archaeological potential due to proximity to Minster Abbey site

- Contamination: There is old asbestos pipework within the ground

**Swale Footpaths Group** comments are summarised as follows:

6. No objection, and don't envisage substantive impact on adjacent PROW (namely ZS9). Detailed comments are made, which can be addressed at reserved matters stage, if the appeal is allowed.
7. **Minster Parish Council** object to the proposal for the following reasons: -
  1. The proposed site being outside the Local Plan Development Area, would involve the further loss of open countryside, to the detriment of a much-loved landscape, precious rural amenity and residents' well-being.
  2. It would also displace the prolific wildlife that has long been a feature of this site and so put further pressure on Sheppey's ever-shrinking natural habitats.
  3. The number of dwellings proposed would clearly represent over-intensive development, exacerbated by the height, bulk and close proximity of dwellings in the street-scene. The over-all effect would be incompatible with the scale, design, and character of the established low-density housing that typifies the surrounding area.
  4. Existing problems of surface-water flooding in the Nelson Avenue/Drake Avenue area would be increased rather than alleviated by the new development.
  5. Vehicles emanating from the occupation of the site and servicing its amenities will place an unacceptable burden on an already over-congested local road network, both on and off the Island. Site access arrangements are impractical and unsafe.
  6. With overwhelming pressure on a whole range of public services on Sheppey, there is no justification for further adding to that burden by increasing its population via a spurious demand for more housing - especially since the current 5-year Target for new-build housing in Swale, including on the Island, has now been achieved.
  7. The impact on the overall vision of Minster Village and Grade 1 Listed Abbey and Gatehouse Museum will be detrimental and cannot be mitigated against. This goes against Swale Borough Council's Local Plan policy which is to protect and conserve local heritage.

7.1 *Expanding on the above:-*

*Swale Borough Council's Pre-Planning Advice on an adjacent greenfield site of similar size is specific about the settlement strategy, under Policy ST3, which "seeks to restrict development in the countryside unless it is able to demonstrate that it would contribute to protecting its intrinsic value, landscape setting, tranquillity and beauty, its buildings and the vitality of rural communities". So, precisely what this current application fails to achieve.*

7.2 *The site is also in the impact zone of the Special Protection Area for ecology in this part of the countryside, which highlights the adverse impact to wildlife from its development.*

7.3 *From a safety viewpoint, the design of its access points poses more questions than answers. Allowing pedestrians and cyclists to exit onto Scocles Road via a steep, relatively narrow*

*track poses the constant risk of uncontrolled collision with vehicles using that road. Lack of adequate visibility splays and a dearth of pavements on the east side of Scocles Road increase the danger considerably, and the applicants' justification that providing a cycling and walking route to village amenities is a sustainable policy stretches credibility. As does the track's function as a convenient access to bus routes, since apart from school buses, other Island routes are scheduled to be discontinued, due to lack of financial viability. The existing bus stop in Scocles Road near Harps Avenue has already been closed to the public.*

- 7.4 *The main access to the site, in Nelson Avenue, will have its own problems, with the sheer volume of traffic generated within the site inevitably increasing congestion in a residential road already inadequate in terms of parking and passing, with a further reduction in spaces for existing residents as a result of the width of visibility splays at the access itself. Within the site, the proposed cycle route poses the real risk of pedestrian/cycle collisions, due to insufficient intervisibility between southbound cyclists and westbound pedestrians from Nelson Avenue's northern footpath. Concerns about how refuse vehicles will negotiate the site's cluttered internal road have been met by a 'swept-path analysis' suggesting there will be no need to use reverse gear. Really? All these site-specific issues are apparently to be 'reviewed' and shown to be satisfactory at the final Reserved Matters stage - when of course it will be too late to prevent approval of an application that is fundamentally flawed.*
- 7.5 *Amongst the most contentious aspects of this application is the claim by the applicants' agent that the extra traffic generated will be easily absorbed by the local highway network and therefore insignificant. This is obviously not the case. Scocles Road is critically overloaded already, with poor visibility on dangerous bends, narrow 'pinch points', and inadequate speed restrictions - culminating in queues and tailbacks at its junction with the A2500 Lower Road, which is itself operating at above its design capacity.*
- 7.6 *The A249 too has far exceeded its design capacity, and is critically congested from the Island to the M2. The situation on this road is deemed so serious that Highways England – the Government's appointed Highway and Traffic Authority - has imposed a Condition on larger planning applications coming forward for housing sites in Swale until scheduled improvements are made under the Roads Investment Strategy and Housing Infrastructure fund to both M2 Junction 5 and the A249 Grovehurst Junction. No such sites given permission shall be fully occupied until the opening to the public of these completed schemes. The reason given is "To ensure (these roads) continue to be an effective part of the national system of routes for through traffic, and to satisfy the reasonable requirements of road safety". Interestingly, Highways England also notes that "We do not accept the argument that such sites are generating traffic that is the equivalent of 'daily fluctuations'. They are not. They, and all other sites, are individually and cumulatively contributing to growth in traffic".*
- 7.7 *Minster-on-Sea Parish Council would say that 'cumulative' is the key word here, as following the recent approval of 'The Slips', there are now three large sites under consideration between Scocles Road and Elm Lane: the one being considered here, another awaiting an appeal decision, (after SBC's refusal, primarily on traffic grounds) and a third in obedience, following Pre-Planning Advice as mentioned above. Also included in part of that Advice was that: "Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe." On this basis, the applicant's statement that there are no known proposed*

*developments with planning consent of similar or large-scale size within the immediate vicinity of the site is simply not true.*

- 7.8 *Furthermore, a word of caution, while this is an outline application aimed at determining the principle of residential development on this Greenfield Site, it also includes numbers as in 'up to,' so, it appears in principle, to be not just seeking the development of the site but seeking the 'density proposed.' This presents as a game changer because outline doesn't usually mention numbers, only change of use and this type of application does not bode well for the protection of the open countryside going forward.*
- 7.9 *Minster on Sea Parish Council would contend that the severity of that impact has now been demonstrated beyond doubt. In view of that, and for all of the other specific reasons given above, we would urge Swale Borough Council to REJECT this application”*

## 8. CONSULTATIONS

**Environment Agency** – No comments

**Historic England** – No comments

**Natural England**- No objection to the proposal subject the adoption of an Appropriate Assessment and suitable mitigation being secured. This can be done in the form of a financial contribution to mitigate the potential impacts of increased residential use upon the coastal Special Protection Area(s) and Ramsar Site(s).

**Interated Care Board**- An updated response is awaited reflecting the fact that scheme is now for up to 64 dwellings, rather than 73 as initially proposed. Members will be updated at the meeting.

**Southern Water** - No objections subject to conditions relating to additional conditions in respect of (i) phasing of development delivery to align with provision of drainage infrastructure and (ii) details of foul and surface water drainage.

**KCC Archaeology**- No objection subject to conditions.

**KCC Development Contributions** No objection subject to securing the appropriate contributions to mitigate the development.

	Per 'Applicable' House (x64)	Per 'applicable' Flat	Total	Project
Primary	£6,800.00	£1700.00	£435,200.00	Towards the new 2FE Primary School construction upon land at Rushenden, Queenborough
Secondary Education	£4,540.00	£1135.00	£290,560.00	Towards Highsted & Borden Grammar School expansions

	Per Dwelling (x64)	Total	Project
Community Learning	£16.42	£1,050.88	Contributions requested towards additional equipment and resources at Sheerness Adult Education Centre
Youth Service	£65.50	£4,192.00	Contributions requested towards additional Youth Service resources locally
Library Book stock	£55.45	£3,548.80	Contributions requested towards additional services and stock at Minster Library
Social Care	£146.88	£9,400.32	Specialist care accommodation in Swale District
Waste	£183.67	£11,754.88	Towards MRF and additional capacity at the HWRC & WTS in Sittingbourne

A pre-commencement condition regarding broadband is also requested.

KCC Ecology No objection subject to conditions relating to the submission of a lighting plan and a scheme of ecological mitigations and enhancements. They also advise that an Appropriate Assessment needs to be adopted.

**KCC Flood and Water Management-** No objection, subject to conditions seeking a detailed sustainable surface water drainage scheme and verification report for the surface water drainage system.

**KCC Highways –** No objection subject to the access being agreed at the reserved matters stage and noting that a developer contribution (of £1200 per dwelling) will be required to support public transport provision locally.

**KCC Public Rights of Way (PROW) -** No objections, subject to a contribution of £47,500 towards the provision of a sealed surface path to a width of 2.5 metres for the section of public footpath ZS8 to the north of the proposed development.

**Internal Drainage Board –** No objection subject to the applicant gaining the relevant consents from the Lower Medway Internal Drainage Board.

**Kent Police-** No objection subject to a condition requiring the applicant to apply secured by design principles at reserved matters stage.

**Rural Planning Consultant** – No objection to the proposal on the basis that the land appears to be 3b agricultural land (and not Grade 2 as indicated in the applicants planning statement) therefore the site does not constitute best and most versatile agricultural land. The land is steeply sloping and the general soil type in the area is seasonally wet loam/clay with impeded drainage. The Planning Statement refers to it being unused for agriculture for many years. Taking this into account the loss of agricultural land is not considered to be significant issue in this case.

**SBC Climate Change Officer** – No objection and notes that, in any case, the detail of the sustainability measures will be agreed at reserved matters stage. Members will note that should the appeal be allowed a condition should be imposed to ensure that a scheme of sustainability measures (including to minimise CO2 emissions) is provided.

## 9. APPRAISAL

### Principle of Development

- 9.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 9.2 Paragraph 10 of the NPPF states that at the heart of the NPPF is a presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social and environmental and to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
- 9.3 The mechanism for applying the presumption in favour of sustainable development is set out in paragraph 11 and states that for decision-taking this means:
- c) approving development proposals that accord with the Development Plan without delay; and,
- 9.4 d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- 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.
- 9.5 Assessing the development against the development plan and specifically policies ST1, ST3 and ST6 of the Local Plan because the site falls outside of defined confines of Minister and as such the proposal conflicts with the Local Plan 2017.
- 9.6 However, the Council can only demonstrate a 4.83 year supply of housing and as such cannot demonstrate a 5 year supply. In accordance with footnote 8 to paragraph 11 of the NPPF, its relevant policies for the supply of housing cannot be considered up-to-date. This does not, however, lead to an automatic assumption that planning permission should be granted for residential development in locations that would otherwise have conflicted with Development Plan policies. Rather in situations where the Development Plan policies have failed to secure a sufficient housing, the NPPF seeks to ensure that the 'presumption in favour of sustainable development' is duly applied. If the adverse impacts of the proposal significantly and demonstrable outweigh the benefits, then planning permission should still be refused.

- 9.7 Paragraph 80 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless there are special circumstances, to promote sustainable development in rural areas
- 9.8 Whilst the site is located outside of the defined boundary of Minister and therefore is located in the countryside, it is well located for housing in respect of future occupants being able to access services and facilities via sustainable travel methods including walking and cycling. This weighs in favour of supporting the principle of the development, subject to other relevant planning considerations.
- 9.9 In addition to this the site does not constitute the best and most versatile agricultural land and as such its loss against the need the housing does not to be assessed.

### **Landscape and Wider Impacts**

- 9.10 The appeal site is not a designated landscape area but as countryside it has value as visual amenity from the public realm. The landscape in question has intrinsic value by virtue of being prominently located on an elevated site that is visible in views from the southern part of the Isle of Sheppey, and Policy DM24 is intended to protect it. Unsurprisingly, given that open space once built upon is lost forever, this amenity value is protected by both national and local planning policies.
- 9.11 The Local Plan policy DM24 states that the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced, and, where appropriate, managed. Moreover, Part B of this policy makes it clear that when a development results in having significant adverse impacts on the borough's landscape, the social and or economic benefits of the proposal will need to significantly and demonstrably outweigh the harm to the landscape character, and value of the area.
- 9.12 Part C of this policy also requires development inside the Borough's landscapes to be informed by Landscape and Visual Impact Assessments (LVIA). The applicants have submitted two Landscape and Visual Impact Assessments. The second LVIA, dated April 2022, supersedes the first. The Council instructed Land Use Consultants (LUC) to independently review this LVIA's. Their conclusions are summarised later in this chapter.
- 9.13 Swale's Landscape Character and Biodiversity Appraisal (2011) is also relevant as it provides a framework for Development Management decisions on matters of landscape character. The application site lies within Swale's Landscape Character Area 16 (Minster and Warden Farmlands). Some of the key characteristics of the area include rolling topography with mixed geology of London clay, Claygate beds, Bagshot beds and head gravel.
- 9.14 Whilst this chapter describes the overall condition of Swale's Landscape Character Area 16 as being "poor", it should be noted that this description relates to the character area in the round and does not reflect the condition of the geology and landscape of each individual parcel of land in that area, which varies enormously.
- 9.15 Certainly, over many years, a number of caravan sites and urban fringe activities like horse grazing and playing fields, and wire fences have sprung up and eroded the quality of certain parts of Landscape Character Area 16. However, large parts of attractive landscape remain and therefore it is imperative that the remaining attractive landscape parts of this area are retained, given the poor condition of the other parts.

- 9.16 In 2018, the Council commissioned Land Use Company (LUC) to carry out and produce the Swale Landscape Assessment (2019). LUC have created a five-point rating system from low to high to establish the sensitivity of the landscape.
- 9.17 In the Swale Landscape Assessment, the appeal site forms part of a Landscape Sensitivity Parcel that LUC has named MR5. LUC have classed MR5 as being “**moderate-high**” on their five-point landscape sensitivity scale: a clear indication that they consider this rural area to be sensitive and well worth safeguarding.
- 9.18 Indeed, in their summing up, as well as commenting that “the landscape retains a rural character despite modern developments and a degraded landscape condition in places”, they wrote:
- “The undulating landform, with distinctive hills forms a backdrop to much of Sheppey, is visually prominent and offers expansive views to the north and south. It also has an important role as part of the rural setting for Minster and provides separation from Eastchurch, and a rural gap along the undeveloped coast to the north. These attributes, indicate a moderate-high overall sensitivity to residential development”*
- 9.19 The summary goes on to add:
- “The visual prominence of this area and the fact that any large-scale development has the potential to be a highly visible within this sensitive landscape means that the area has a high overall sensitivity to employment development”*
- 9.20 The appeal site is not a poor quality, flat, backland development opportunity site. With its steep slopes, close relationship with neighbouring green fields and lack of tree coverage, it forms part of the open rolling countryside that defines the eastern side of Minster-on-Sea and is a key characteristic of this part of the island. The quality of openness washes over the site.
- 9.21 Once facing the site from the public footpath to the north (ZS8) and looking south across the site the rural surroundings are immediate; and it is very clear to a walker that they have left the urban settlement and reached open countryside. The walker does not have to go very far into the appeal site to experience magnificent short and long views of the open countryside across the Isle of Sheppey and this stretch as far as the mainland (NB: there are also views of this site from Marshes<sup>1</sup>).
- 9.22 Although parts of the northern and eastern boundaries of the site contain mature hedging, there are significant vantage points between the hedges, from neighbouring properties, and on the Public Right of Way, which offer uninterrupted views of attractive open space. There are also views of the site from the south, including Nelson Avenue, public footpath ZS7, and from the roundabout on Scocles Road where the undeveloped hill slope is visually prominent.
- 9.23 Building housing on this site would reduce the effectiveness of its role as open countryside in an important position and remove it permanently. It would result in the urbanisation of vital countryside and irrevocably alter the rural character of the area.
- 9.24 Moreover, allowing housing development on this appeal site would set a precedent for further housing in this location, exacerbating the harm further still. It is worth noting that an appeal

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<sup>1</sup> LUC, on page A1.119 in the Swale Landscape Assessment (2019) describe the elevated ridge the site is on as being “a prominent backdrop in views from the marshes”.



on the adjoining site (20/504408/OUT & APP/V2255/W/ 22/3298959) was recently dismissed, a key reason being the harm that development on this area of visually prominent open countryside would cause to the character and appearance of the area. The appeal decision is included as Appendix 1.

- 9.25 In short, in my opinion, the provision of housing will detract from the openness of the site in this sensitive location.
- 9.26 This conclusion is shared by LUC in their independent review of the appellants LVIA (see Appendix 2 and 3), who concludes that *“LUC consider that there will be a significant adverse impact on the landscape of the site and its wider character area as a result of this development.”*
- 9.27 LUC reach the following conclusions in their review dated May 2022:
- 9.28 *“The amended LVIA follows the general principles set out within GLVIA3 and has responded to the recommendations from the LVIA Review (December 2021) and subsequent meetings with SBC. The assessment therefore provides sufficient levels of information for SBC to make an informed planning decision.*
- 9.29 *Embedded mitigation within the amended design is included at para 4.6. The amended LVIA concludes that there will be a moderate adverse effect on the landscape of the Site (north of Nelson Avenue) at construction and year 1, which will reduce to minor adverse by year 15. The impacts on the other landscape character areas identified are assessed as being minor adverse at construction and year 1. At year 15 the effect on the urban areas of Scocles Road, Nelson/Drake Avenue, Chapel Street and Chequers Road is considered to be neutral, and the effect on Minster and Warden Farmlands is considered to be minor neutral.*
- 9.30 *LUC consider that there will be a significant adverse impact on the landscape of the site and its wider character area as a result of this development.”*
- 9.31 For all of the reasons above, I believe the material harm brought about by the loss of this open countryside is a clear breach of the Local Plan and significantly and demonstrably outweighs the benefits of the scheme. This would fail to protect the countryside and landscape, be contrary policies ST1, ST3, and DM24 (which seeks to protect and enhance non-designated landscapes). The localised landscape and visual harm would give rise to harm to the intrinsic value, landscape setting, tranquillity, and beauty of the countryside, and this is a significant negative.

### **Heritage**

- 9.32 The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 9.33 The Council’s Conservation Officer has been consulted through the course of the application and has reviewed the Heritage Impact Assessment dated April 2021, and the Heritage Impact Assessment Amended Version dated April 2022. The Conservation Officer has reviewed

these documents. He broadly agrees with its conclusions that the development would be at the lower end of the less than substantial harm on the Abbey complex.

- 9.34 The Conservation Officer has concluded that whilst the limited views of the highly heritage significant Minster Abbey will add an extra dimension to the appreciation of the landscape quality at the proposed development area, development of the site will not necessarily remove all existing views of the abbey from it (where they currently exist), nor from land further south. Furthermore, there is no functional relationship between the proposed development area and the abbey, and this leads to conclude that whilst the change in form from grazing land to housing in the wider setting of the abbey would result in a very low level of harm (at the lower end of less than substantial harm in NPPF terms), the impact that would arise is not of sufficient magnitude to sustain a heritage-related reason for refusal.
- 9.35 The Conservation Officer has advised that if approval was recommended, that subsequent Reserved Matters Application should ensure that the view through the site of the Abbey is maintained, and for the layout of the housing scheme to maximise the opportunity to retain these views in parallel with planning and urban design considerations, given the contribution those views can make in placemaking terms.

### **Highways / Transport**

- 9.36 Paragraph 111 of the NPPF sets out that development should only be refused on highways grounds when an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 92 promotes healthy, inclusive and safe places through a number of measures including ensuring streets are designed to allow easy pedestrian and cycle connections within and between neighbourhoods. This is further emphasised in Paragraph 104.
- 9.37 Policy DM6 sets out the requirements for managing transport demand and impact. The policy requires development proposals involving intensification of any existing access onto a strategic, primary or other route will need to demonstrate that it is of a suitable capacity and safety standard or can be improved to achieve such a standard. Policy DM 7 requires compliance with the Swale Vehicle Parking SPD. The policy further requires cycle parking facilities on new developments to be of an appropriate design and in a convenient, safe, secure and sheltered location.
- 9.38 The application has been supported by a Transport Statement Addendum which has considered that capacity on the local highway network, including junction capacity modelling and cumulative impacts of nearby development proposals. The document has demonstrated that there is sufficient capacity on the local highway network to accommodate the number of vehicular movements estimated to be generated by the proposed development without giving cause to any adverse impacts on capacity or road safety.
- 9.39 KCC Highways have advised that the impact on Barton Hill Drive/Minster Road from windfall applications such as this should be addressed through public transport contributions to make better use of bus services in the area. KCC Highways have therefore requested a contribution of £1,200 per dwelling to be used on providing access to bus services for residents.
- 9.40 The indicative vehicular access from Nelson Avenue would measure 5.5m wide with appropriate footways and cycleways, together with 6m junction radii and would be in

accordance with the geometric requirements in Kent Design Guide. The comments provided by KCC Highways outline that the indicative vehicular access would be suitable, subject to detailed design at reserved matters stage.

- 9.41 To enhance pedestrian connectivity, a pedestrian/cycle access and crossing link to the western side of Scocles Road will be required moving the scheme forward, and this will be subject to detailed design at reserved matters stage.
- 9.42 It is considered that off-site highway works including waiting restrictions along Nelson Avenue; a pedestrian crossing link to the western side of Scocles Road from the pedestrian access to the site; provision of replacement parking spaces for existing users on Nelson Avenue will be required if the scheme is approved, and these would be controlled via reserved matters when the access details are sought.
- 9.43 An indicative total of 155 residential parking spaces is shown across the site, in accordance with the 'Suburban' standards specified by the Swale Borough Council Parking Standards Supplementary Planning Document (SPD, 2020). In addition to these spaces, 45 garages are shown. A minimum of 13 parking spaces are shown across the proposed development as unallocated bays for visitors. Storage for at least one cycle per bedroom is shown within the curtilage of each unit, in accordance with the minimum standards specified by the Parking Standards SPD. The indicative details provided would meet the requirements of the Parking Standards SPD in terms of parking numbers, and distribution between on-plot parking, and unallocated provision. No objection is therefore raised regarding parking, and it is considered that full details can be secured at the reserved matters stage.

### Housing Mix

- 9.44 Paragraph 62 of the NPPF establishes that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. Policy CP3 of the Local Plan requires new development to achieve a mix of housing types, reflecting the findings of the current Strategic Housing Market Assessment or similar needs assessment along with meeting the housing requirements of specific groups, including families, older persons, or disabled and other vulnerable persons.
- 9.45 Figure 5.3.1 in the Local Plan forms the starting point for negotiations on the percentages sought in respect to housing mix. This establishes the following ratio:

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

- 9.46 The proposed development is for up to 64 no. 3 and 4 bedroom units, which would be a departure from the housing mix identified in CP3, as it omits any 1 or 2 bed units from the site. The split between 3 and 4 bedroom units is not known at this stage. Given the outline nature of the proposal, a condition could be imposed to secure an alternative housing mix which also includes 1 and 2 bedroom units.

**Character and appearance** In respect of density, Policy CP3 (wide choice of high-quality homes) of the Local Plan requires density should be determined by the context and the defining characteristics of the area. The application proposes up to 64 units. The total site area is 4.3 hectare, but the net developable area is not known at the time of writing this report.

- 9.47 The application includes an illustrative scheme. This plan is indicative only with the final design details to be provided at reserved matters stage, should the Planning Inspector grants outline planning permission. However, although illustrative, it is useful to have, as it demonstrates that the site can provide a reasonable area of open space for future residents to use. It also shows that the site layout can configure the units with appropriate spacing and the units will not be crammed; the layout is consistent with the character of the surrounding residential properties; each unit benefits from appropriate amenity standards and swept path analysis has been undertaken to demonstrate vehicular movement will not compromise highways safety. As such, the density of the scheme is considered to be appropriate and ensures efficient use of the land without compromise to the scheme.
- 9.48 Whilst the indicative site layout show that a reasonable scheme can be delivered on this site, no amount of landscaping around the houses will improve the landscape character and visual amenity of the site because attractive rolling countryside will, in essence, be lost by a housing development that, ultimately, would urbanise the countryside, to its detriment.

### **Living conditions**

- 9.49 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.
- 9.50 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. This includes consideration of overlooking which should not unduly prejudice the operation of adjoining land through negative impacts on privacy.
- 9.51 On the basis of the indicative layout and the relationship of the site with nearby dwellings, it is considered that a detailed scheme that would not result in harm to neighbouring property occupiers can be achieved on the site.
- 9.52 Similarly, I do not believe future occupiers of this development would suffer from poor quality living conditions. The indicative site development layout, and details of the heights of buildings are considered appropriate to prevent overlooking, overshadowing or an overbearing impact being an issue.

### **Flood Risk/Drainage**

- 9.53 Policy DM21 of the local plan sets out the requirements for water, flooding and drainage. The policy sets out a series of 10 criteria by which developments should adhere to. The Local Plan is consistent with the requirements of the NPPF which directs development away from areas of highest flood risk.

- 9.54 Using the Environment Agency flood risk map, the application site is located within Flood Zone 1, however, due to the size of the site a Flood Risk Assessment has been submitted, which is also accompanied by a drainage strategy.
- 9.55 The report concludes that a scheme can be developed in a way that does not increase the risk of flooding to adjacent properties and development further downstream. The information provided outlines that the proposed SuDs strategy would comprise exocellular storage crates located beneath the private driveways, and a lined pond/basin to capture the runoff at the lowest point in the site (situated close to the southern boundary).
- 9.56 The application has been subject to consultation with KCC Flood and Water Management, the Environment Agency, and Southern Water. Although I note concerns about drainage by the neighbours, the comments I have received from the statutory consultees have raised no objection subject to the imposition of conditions requested by Southern Water and KCC.
- 9.57 The principle of residential dwellings in Flood Zone 1 is considered acceptable. The application is supported by the necessary assessments and has been subject to relevant consultation which has found the proposal to be acceptable.

### **Biodiversity**

- 9.58 Paragraph 180 of the NPPF sets out the principles by which planning applications should be considered against in respect to habitats and biodiversity.
- 9.59 Policy CP7 requires developments to conserve and enhance the natural environment. The policy lists the ways in which that shall be achieved and includes the requirement for developments to make the enhancement of biodiversity and landscape as their primary purpose. The policy further requires a net gain in biodiversity in line with the NPPF's requirements. This is further supported by Policy DM 28 which further requires proposals to be accompanied by appropriate surveys undertaken to clarify constraints or requirements that may apply to development.
- 9.60 The application is also supported by a Preliminary Ecological Appraisal Report, dated April 2021 prepared by the Fellgrove. This has been undertaken to understand any ecological constraints, any mitigation measures that may be required, any additional survey work that may be required and to identify opportunities for ecological enhancement.
- 9.61 The site is currently in use as an equestrian paddock, with limited mature planting. Such habitats are of low ecological value, with only hedgerows considered to form an important ecological feature. The existing vegetation at site boundaries are to be retained as part of the proposals.
- 9.62 As set out at paragraph 6.24, KCC Ecology raise no objection subject to conditions, which are summarised as above.
- 9.63 The Preliminary Ecological Appraisal Report sets out that further ecological surveys are required, specifically regarding a bat scoping survey and habitat suitability surveys (re Great Crested Newts). It also outlines that the bramble vegetation and trees within the site boundary have high potential to support nesting birds, and will need to be protected as part of the proposal.

- 9.64 The application is in outline at this stage; however, the supporting document suggests that the scheme will not have an adverse impact on biodiversity or ecology subject to further survey work and suitable mitigation or enhancement. It is therefore recommended that conditions should seek further ecological surveys regarding bats, birds and GCN/habitats prior to the submission of reserved matters, and prior to the commencement of any development on site.
- 9.65 Moreover, it is recommended that the SAMMs tariff would need to be secured via legal agreement. With regard to the potential implications for the SPA and the requirements of the Habitat Regulations. As Members will be aware, the Council seeks developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA). The application site is within 6km of the SPA, situated approximately 3km from the closest part of the SPA and as such the Council seeks a mitigation contribution of £275.88 for each new dwelling. The proposal will result in a net gain of 45 dwellings which will result in a financial contribution of **£16,245.12** which will be secured via a S.106 legal agreement. As a result, and appropriate assessment will be undertaken below.

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

- 9.66 This Appropriate Assessment 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).
- 9.67 SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 9.68 Due to the scale of development, there is limited 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. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 9.69 In considering the European site interest, Natural England (NE) 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 advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.
- 9.70 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 (NKEPG).

- 9.71 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 (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.
- 9.72 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 s106 agreement 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.
- 9.73 Therefore, if a Unilateral Undertaking (UU) is provided or a S106 Agreement is signed, this aspect of the proposal would accord with Policy DM28 of the Local Plan and the NPPF. That there isn't a UU or signed s106 agreement before me as I write this report means that there is no guarantee that this obligation would be met, and the absence of the contribution forms weighs against the scheme and forms another reason for refusal.

### **Sustainability / Energy**

- 9.74 The NPPF supports proposals for improvements to environmental sustainability, placing sustainability at the heart of the framework. Paragraph 152 requires the planning system to support the transition to a low carbon future in a changing climate, including the requirement to help shape places in ways that contribute to radical reductions in greenhouse gas emissions. Paragraph 154 goes on to require new development to reduce greenhouse gas emissions, such as through its location, orientation, and design. This is further iterated in Paragraph 157 which sets out that in determining planning applications, new development should take account of landform, layout, building orientation, massing, and landscaping to minimise energy consumption.
- 9.75 Policy DM19 of the Local Plan requires development proposals will include measures to address and adapt to climate change. The ways in which this shall be achieved are then further detailed in the policy; including measures such as use of materials and construction techniques which increase energy efficiency and thermal performance; promotion of waste reduction, re-use, recycling and composting; and design of buildings which will be adaptable to change and reuse over the long term and which include features which enable energy efficient ways of living, for example.
- 9.76 Policy DM21 also requires that new residential development, all homes to be designed to achieve a minimum water efficiency of 110 litres per person per day. It is recommended that this be secured by condition should consent be granted.
- 9.77 In addition to the above, the Council has declared a Climate Change and Ecological Emergency and all applications for new housing are expected to demonstrate how they incorporate all reasonable sustainable design and construction measures within the scheme

in order to minimise environmental impacts. This can include measures such as electric vehicle charging points (provision of one per dwelling); solar panels; passive energy measures; low NOx boilers as examples. Regarding the dwellings, it is the expectation that a reduction in CO2 emissions of 50% above the requirements of the Building Regulations be achieved.

9.78 The Council's Climate Change Officer has reviewed the details submitted by the appellant and concluded that it is thin on details and that this should be addressed at the reserved matters stage. It is considered that details relating to sustainable construction techniques and Electric Vehicle Charging Points can all be addressed through the imposition of conditions, if the Inspector is minded to grant planning permission, as the final layout and details would be dealt with at the Reserved Matters Stage.

### **Developer Contributions**

9.79 Policy CP 6 and IMP 1 seek to deliver infrastructure requirements and other facilities to ensure the needs of the Borough are met.

9.80 Kent County Council have outlined the contributions required in association with the development (Members will note the consultee response from KCC above). The contributions would be put towards primary education and secondary education. Further contributions would be sought for community learning, youth services, library book stock, social care, and waste.

9.81 Kent and Medway Clinical Commissioning Group also made comment noting that the proposal would generate a requirement for an additional 235 patients. The comments note that the proposal would fall within the current practice boundaries of The Om Medical Centre, Sheppey Healthy Living Centre, St Georges Medical Centre and Sheerness Health Centre within the local area. The proposal would need to contribute due to the limited capacity within existing general practices. The total amount requested would be **£84,420**

9.82 No comments have been received from Open Space team. However, based on the Open Spaces and Play Area Strategy 2018 – 2022 a contribution would likely to be sought based on £593.00 per dwelling on formal sports and £446.00 per dwelling for play and fitness. The total would amount of up to **£66,496**.

9.83 Further, to the above Swale would require contribution towards the provision of wheelie bins of approximately. Administration/monitoring fees, SPA mitigation as referenced above, would be sought via the S.106 agreement.

9.84 The requested contributions are outlined below, given the outline nature of the scheme the per dwelling figure will be used for the purposes of the S.106 agreement.

KCC Primary Education	(£6800 per house) & (£1700 per 'applicable' flat)
KCC Secondary Education	(£4540 per house) & (£1135 per 'applicable' flat)
KCC Community Learning	(£16.42 per dwelling)
KCC Youth Service	(£65.50 per dwelling)
KCC Library Book stock	(£55.45 per dwelling)
KCC Social Care	(£146.88 per dwelling)
KCC Waste	(£183.67 per dwelling)



KCC Highways	(request of £1,200 per dwelling)
KCC PROW	(request of £47,500)
NHS CCG	(request of £84,420)
SBC Formal Sports	(£593.00 per dwelling)
SBC Play	(£446.00 per dwelling)
SBC refuse/bins	£109.40 per house and £196.98 per flat
SAMMS	£275.88 per dwelling
Administration and Monitoring	(TBC)

9.85 The contribution per dwelling equates to approximately **£16,224.20**

9.86 The appellants have submitted a draft Unilateral Undertaking as part of the appeal documents which indicate the provision of the majority of the contributions listed above. However, the draft Unilateral Undertaking does not reflect the requested contributions by KCC Highways, or the contributions for SBC Formal Sports or SBC Play.

9.87 Given that there is no signed legal agreement at this stage, and the draft Unilateral Undertaking omits three required contributions, the absence of a signed legal agreement at the time of writing this report means that, potentially, the scheme might not mitigate its own impact. Therefore, the absence of a legal agreement committing to these contributions forms another reason for refusal and weighs against the benefits of the scheme.

## 10. CONCLUSION

10.1 As the Council cannot demonstrate a five year supply of housing , the proposal would fall to be considered under paragraph 11 of the NPPF and a balancing exercise has been undertaken reflective of the above.

10.2 In terms of negative aspects;

- The proposal is, overall, considered to result in localised landscape and visual harm and would result in a clear encroachment into the open countryside.
- The proposal would not re-use Previously Developed Land;
- The above are considered to be significant negatives

10.3 In terms of the positive aspects;

- The provision of up to 64 houses at a time when the Council cannot demonstrate a five year housing land supply;
- The modest positive benefits of improving the economic and social vitality of the area (during construction and through the introduction of new residents);
- Locational sustainability of the site
- Some fringe benefits would arise from some of the S106 financial obligations: only very limited weight would be given to these as S106 payments are there primarily to mitigate the impact of the development.

- 10.4 When assessed against para 11 of the NPPF, it is considered that the adverse impacts in terms of conflict with the environmental objectives of the Framework significantly and demonstrably outweigh the benefits of the proposal, even when the extent of the housing deficit is considered. As a result, I take the view that the proposal would fail to constitute sustainable development. As such, it is recommended that the application is refused.
- 10.5 The harm, which significantly and demonstrably outweighs the benefits, cannot be justified by reference to housing supply. Whilst housing is a welcome and clear benefit, there is no policy support for its delivery at the expense of the local context. The proposal's substantial non-compliance with national and local planning policies is not outweighed by housing delivery considerations. Therefore, if an appeal against non-determination had not been submitted to the Planning Inspectorate, then I would have been minded to recommend that the proposal be refused for the reasons set out below.

## 11. RECOMMENDATION

### 1) Putative reasons for refusal:

The proposed development would fail to protect the intrinsic value, tranquility and beauty of the countryside and rural context by virtue of its location outside the defined urban boundary of Minster-on-Sea. The proposal would also result in the creeping coalescence of adjacent parts of the settlement of Minster-on-Sea and the permanent loss of open countryside. This harm, both significantly and demonstrably, outweighs any benefits from the proposal (including its contribution to the overall supply of housing in the Borough and to the provision of affordable dwellings). The development is therefore contrary to policies ST1, ST3, CP3, CP4, DM9, DM14, DM24 of the "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and would be contrary to paragraphs 8, 20, 130, 174 and 185, 170 of the National Planning Policy Framework (2021).

### 2) No legal agreement has been finalised to secure mitigation against community and ecological harm, and as such the proposal is unacceptable on the basis of the unmitigated impacts that would be likely to result, contrary to the provisions of the development plan and the NPPF.

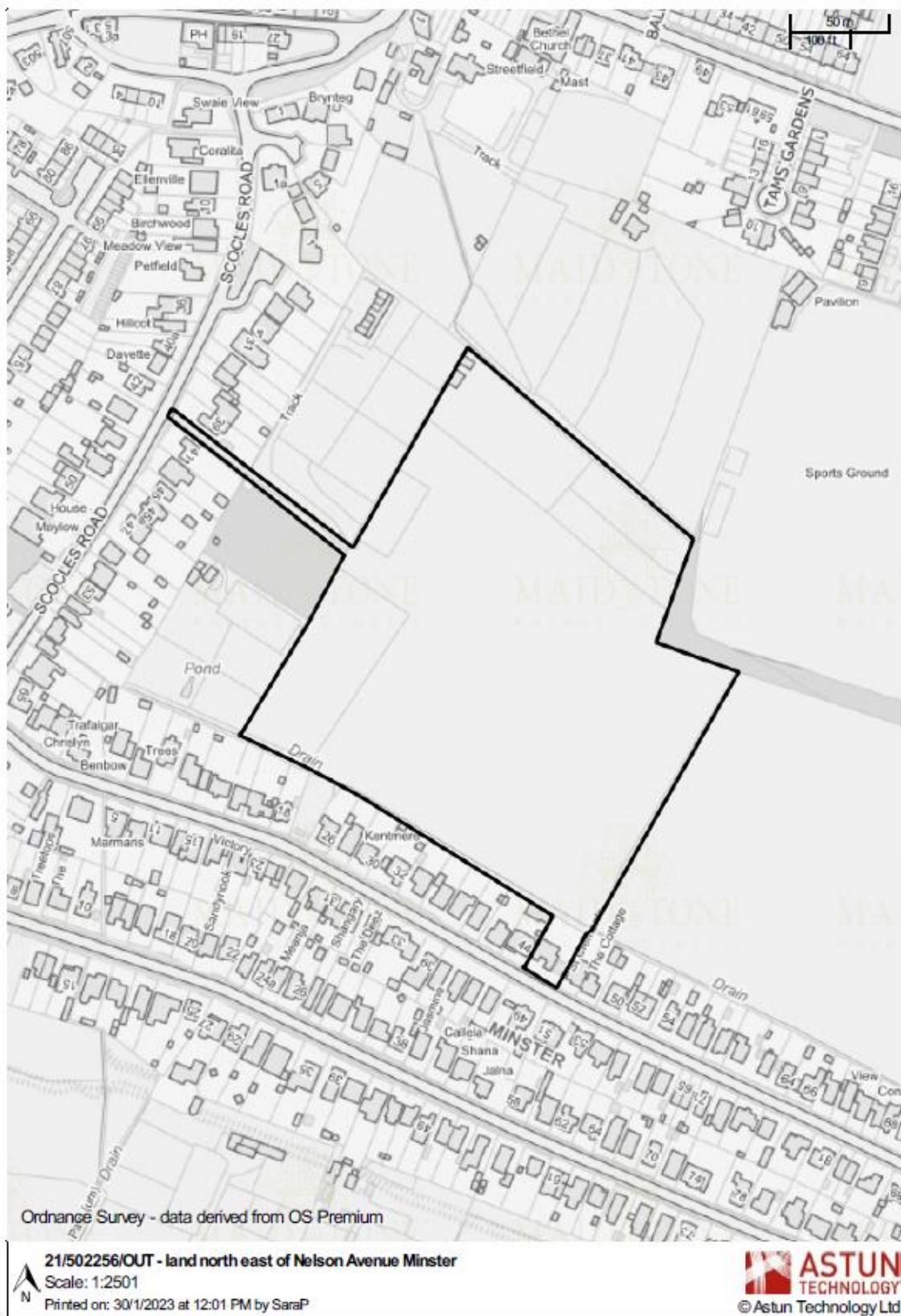
## The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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

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



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<b>3.2 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> That planning permission is Refused		
<b>SUMMARY OF REASONS FOR REFUSAL</b> The Planning Committee resolved to grant planning permission for the development on 23 <sup>rd</sup> June 2022, subject to completion of a S106 Agreement to tie the new agricultural dwelling to the surrounding farmland operated as an egg farm. The applicant has not entered into this Section 106 Agreement, and without this, the application is considered unacceptable and should be refused.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The resolution from the Planning Committee on 23 <sup>rd</sup> June 2022 did not include authority for officers to refuse the application under delegated powers delegated powers in the event that a S106 Agreement was not completed.		
<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> 24/02/2022	<b>CASE OFFICER</b> Megan Harris

### Planning History

As set out in the committee report attached as Appendix 1.

#### 1. BACKGROUND

1.1 This application was reported to Planning Committee on 23<sup>rd</sup> June 2022, and was recommended for approval. A copy of this report is attached at Appendix 1. Members resolved to approve the application, subject to the applicant entering into a Section 106 Agreement which would tie the land and dwelling together to prevent one from being severed from the other. Such a mechanism via a S106 Agreement was considered necessary due to the relatively large size of the dwelling, the specific need for a permanent residential presence at the egg farm, and the ability of the egg farm enterprise to support, in financial terms, the costs associated with a dwelling of this size. Whilst the dwelling was deemed to be affordable for the farm enterprise itself, some concern was expressed about the potential for the dwelling to be severed from the unit and unaffordable to the wider agricultural worker community. Whilst condition 18 in the committee report attached at Appendix 1 ensures the occupation of the dwelling would be limited to agricultural workers, it does not prevent the farm being sold separately from the dwelling – nor can a planning condition achieve this. The Agreement provides an appropriate mechanism to secure this.

1.2 Whilst the applicant initially agreed to enter into this Agreement following the committee resolution, they subsequently raised concern over the drafted wording of the document,

and in particular the fact that the land and dwelling would be tied together in perpetuity. In my opinion, a time-limited mechanism that would free the dwelling from the terms of a S106 agreement at a set date would not be appropriate, nor am I aware of any similar circumstances where an agricultural dwelling has been tied for a time-limited period only. In addition, I note that there is an application process under the Planning Acts to modify or discharge a S106 Agreement if it no longer serves a useful purpose.

- 1.3 The agent subsequently advised by email dated 28/11/22 that their client was willing to sign an agreement in the terms required by the Council. However, since this date and despite numerous attempts to chase progress, a signed agreement has not been submitted. For this reason, the application is being reported back to Planning Committee.

## 2. DISCUSSION

- 2.1 The officer report attached at Appendix 1 did not include reference to the need for a Section 106 Agreement. However, a Planning Committee is entitled to reach a different planning outcome and judgement, including the use of planning conditions and S106 Agreements, provided that there are sound planning reasons for doing so. The key relevant tests for a planning obligation are as follows –

Necessary to make the development acceptable in planning terms – the Agreement is necessary to tie the dwelling to the need identified, i.e. as a farm dwelling, in an area where a new dwelling would not otherwise be permitted.

Directly related to the development – the Agreement sought directly relates to the dwelling and land holding that supports the farm enterprise and which has been used to support and justify the need for a dwelling of the size proposed as part of the planning application.

Fairly and reasonably related in scale and kind to the development – the Agreement only relates to the land holding and farm enterprise that supports the dwelling and is fairly and reasonably related.

- 2.2 In my opinion, the Planning Committee exercised sound planning reasons for the requirement to tie the agricultural dwelling to the wider farm enterprise. Without this Agreement in place, it is possible that the dwelling could be severed from the surrounding farm enterprise in the future. It is unlikely that a dwelling of the scale and design proposed would be within the reach of a general farm worker as part of the wider agricultural community. If the dwelling was to be severed from the enterprise, Officers would be concerned that it could result in pressure to remove the agricultural occupancy restriction completely, which in turn would remove the justification for the dwelling at this current time.

## 3. RECOMMENDATION – REFUSE for the following reason:

- (1) In the absence of a Section 106 Agreement to tie the ownership and occupation of the proposed agricultural dwelling to the wider farm unit, there is an unacceptable risk that the dwelling could become severed from the farm unit and, due to its size and scale, become unaffordable to the wider agricultural worker community. If the

unit is unable to be occupied by an agricultural worker, this would support the removal of the agricultural occupancy condition and ultimately could result in a large residential dwelling in the countryside, which is contrary to both local and national policies to protect the countryside and avoid isolated new dwellings in the countryside.. The application is therefore contrary policies ST3 and DM12 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 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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

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





**APPENDIX 1**

<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.

**APPENDIX 1**

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

**APPENDIX 1**

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*

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- *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.*

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*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>.*

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*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.

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- 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*

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*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;*



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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

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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**

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- 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

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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.

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- 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**

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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.

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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.

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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 following 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.



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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.

**APPENDIX 1**

- (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

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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

**APPENDIX 1**

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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**PLANNING COMMITTEE – 9 FEBRUARY 2023****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 – Paradise Farm The Stables Lower Hartlip Rd Hartlip**

**APPEAL ALLOWED****DELEGATED REFUSAL****Observations**

A disappointing decision where the Inspector allowed a substantial rear extension to a converted stable building. Notwithstanding that the extension (taken together with an existing ground extension) would result in a 75% increase in floor area, the Inspector considered that the building already had the appearance of a substantial cottage, and that the extension had been designed to appear subservient in appearance.

- **Item 5.2 – Greystone Bannister Hill Borden**

**APPEAL DISMISSED – PARTIAL COSTS ALLOWED****AGAINST OFFICER RECOMMENDATION****Observations**

The Inspector agreed with Members that the proposed house on Plot 4 (House type C) would have a substantial overbearing effect that would be intrusive and oppressive to the occupiers of Wykeham. The Inspector concluded this would result in significant harm to their living conditions and dismissed the appeal on this basis. However, the Inspector did not agree that the impact of the development upon the access to the site at the junction with Bannister Hill would harm the character and appearance of the local area or the setting of the Borden-Harman's Corner Conservation Area.

The Inspector considered that the Council had acted unreasonably in pursuing this reason for refusal on the basis that the proposal did not include any adjustments to this junction beyond those already approved as part of another planning approval that has been substantially implemented. The Inspector found that the Council did not provide any material that would indicate why the proposed addition of a single additional dwelling on the appeal site would result in an increase in traffic which would require any adjustment to the approved design of the junction of the driveway with Bannister Hill. The Inspector also noted that the Council continued to pursue the reason even after the applicant had sought to clarify matters. On that basis the Inspector awarded costs limited to those incurred in addressing the second reason for refusal.

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## Appeal Decision

Site visit made on 22 November 2022

by **Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

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**Appeal Ref: APP/V2255/D/22/3303116**

**Paradise Farm, The Stables, Lower Hartlip Road, Hartlip, Kent ME9 7SU**

- 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 Cllr John Right against the decision of Swale Borough Council.
  - The application Ref 22/501861/FULL, dated 7 April 2022, was refused by notice dated 22 June 2022.
  - The development proposed is a first floor rear extension.
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### Decision

1. The appeal is allowed and planning permission is granted for a first floor rear extension at Paradise Farm, The Stables, Lower Hartlip Road, Hartlip, Kent ME9 7SU in accordance with the terms of the application, 22/501861/FULL, dated 7 April 2022, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the host dwelling and that of the local area.

### Reasons

3. The appeal property is a stable building converted to residential use that has been the subject of a partly implemented single storey extension that was allowed on appeal. This sits in extensive grounds with large front and rear gardens. Although a converted stable building, the appeal property gives the visual impression of being a substantial cottage of historic vernacular design, constructed from red and part yellow stock brick, with a hipped pantile roof.
4. The appeal property forms part of a scattering of buildings at Paradise Farm in what appear to be a variety of residential, agricultural and equine

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Appeal Decision APP/V2255/D/22/3303116

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use. It is located outside the boundary of any defined settlement and is in otherwise open countryside and accessed from Lower Hartlip Road, a country road that connects the Paradise farm area to the village of Hartlip, which appears to be the nearest defined settlement.

5. To the rear of the appeal property is a substantially completed single storey lean-to extension. This does not stretch the full length of the rear elevation of the host dwelling, aligning with only the side elevation that faces away from Lower Hartlip Road. At the time of my site visit the approved lean to roof, windows and doors to this extension were yet to be implemented.
6. The proposal is for a first floor to be added to the full extent of this existing extension. The existing ground floor extension and proposed first floor extension would be clad in horizontal black finished feather edged timber with a pantile roof to match that of the host dwelling. The windows of the proposal would be in timber to match that used in the host dwelling and would align with the existing window openings.
7. The roof of the proposal would be hipped in form and would integrate with the existing roof of the host dwelling to create an internal valley. The angles of the roof of the proposal would match those of the main roof to the host dwelling, however, as the proposal would not be as deep as the host dwelling, its roof would not be as tall.
8. The proposed extension would be of significant size, which, when taken with the existing ground floor extension, would result in an approximate 75% increase in floorspace compared to that of the original host dwelling. However, the integration of the proposal with the existing extension, its vernacular design, lower roof line and setting back from the road facing flank elevation, would result in the proposal appearing as a subservient and appropriately scaled and massed addition to the host dwelling.
9. The proposal would, therefore, read as an architecturally sympathetic addition that would maintain the appearance of the host dwelling as a rural farm building; the original form, and appearance of which would remain substantially apparent and would not result in a weakening of its character.
10. The recessive and subservient appearance of the proposal and its complimentary rural vernacular character and appearance would be readable in all significant views of the appeal property from the wider area, including Lower Hartlip Road and surrounding fields and buildings. The proposal would, therefore, reflect the rural character of the local area and be complementary to the existing collection of nearby buildings and structures that reflect this rural and agricultural character and appearance.
11. For the reasons given above, the proposal would not result in any significant harm to the character and appearance of the host dwelling or that of the local area.

#### **Conditions**

12. Along with the requirement that the proposed development is implemented in accordance with the plans submitted with the application and the

Appeal Decision APP/V2255/D/22/3303116

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standard condition relating to the timing of implementation, I have added a condition to ensure design quality, which would require that materials to be used for the proposed development match those of the host dwelling.

**Conclusion**

13. The appeal is allowed

*Victor Callister*

INSPECTOR

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The Planning Inspectorate

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## Appeal Decision

Site visit made on 22 November 2022

**By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 December 2022

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**Appeal Ref: APP/V2255/W/22/3296580**

**Greystone, Bannister Hill, Borden ME9 8HU**

- 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 Ashbyrne Homes Ltd against the decision of Swale Borough Council.
  - The application Ref 21/504571/FULL, dated 17 August 2021, was refused by notice dated 17 December 2021.
  - The development proposed is Demolition of existing property and erection of 2 Five bedroom dwellings with associated parking and private amenity space.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for partial costs was made by Ashbyrne Homes Ltd against Swale Borough Council. This application is the subject of a separate Decision.

### Main Issue

3. The main issues are the effect of the proposal on:
  - The living conditions of neighbouring residential occupiers; and
  - The character and appearance of the local area and the setting of the Borden-Harmen's Corner Conservation Area.

### Procedural Matters

4. During the consideration of the planning application by the council and prior to their decision, revised drawings were submitted that replaced drawings submitted with the application. Therefore, my consideration of this appeal has been carried out with reference to these revised drawings.

### Reasons

#### *Living Conditions*

5. The appeal site is located on the inside of a bend on Bannister Hill. The site was previously occupied by 'Greystone', a single detached dwelling. At the time of my site visit the demolition of this dwelling had been carried out and construction had commenced to implement an approval for two detached

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dwellings on the site, the approval of which was subsequent to the refusal of the planning application that is the subject of this appeal.

6. The proposal is to erect 2 detached 2 storey houses on the site. These would be generously proportioned, generally hipped roofed 5 bedroom houses with relatively small gardens, associated parking areas and a single detached garage. The proposed houses would be accessed from the newly created driveway/close that connects with Bannister Hill. One of these two houses (House C) would be situated on the site so that a side flank wall would be positioned approximately 2.2 Metres from the boundary of the appeal site with the rear gardens of neighbouring detached properties that face onto Bannister Hill.
7. House C would be located directly opposite the rear garden of Wykeham, a two storey detached house with a relatively small garden. The flank wall of House C would stretch almost the entire length of the rear boundary fence of Wykeham with the appeal site.
8. I acknowledge that during the application period the appellant revised their proposal to increase the separating distance between the boundary with Wykeham and House C by an additional 1.2 Metres. However, the small rear garden of Wykeham would result in the proposal dominating the outlook from the rear rooms and rear garden of this neighbouring property. The outlook from Wykeham would be of a two storey flank wall with part hipped roof above. The flank wall would be punctuated towards its centre by a single door and window at ground level to a utility room and small toilet, and a single window above these at first floor level to a bathroom.
9. From the material before me, I am satisfied that the proposal would not cause a loss of daylight or sunlight to an extent that would result in any significant harm to the living conditions of the residential occupiers of Wykeham or other neighbouring properties. Likewise, the application of a suitable condition on an approval of planning permission, requiring obscured glazing to the proposed bathroom and toilet windows, would resolve any issues of overlooking and privacy that would result from the proposal.
10. However, given the height and scale of the proposed House C, the length of its flank wall that would face the boundary, its proposed proximity to that boundary and the small size of the rear garden at Wykeham, the proposal would result in a significant loss of outlook from the enclosing effect of the proposal to the rear of this neighbouring property. Further, the proposal would have a substantial overbearing effect that would be intrusive and would be experienced by the residential occupiers of Wykeham as oppressive.
11. Although the appellant has stated that the rear rooms at Wykeham are not main habitable spaces, from my observations made on my site visit there is no indication that this is the case.
12. For these reasons I find that the proposal would result in significant harm to the living conditions of the residential occupiers of Wykeham. This would be contrary to policies CP4 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan (2017) (the Local Plan) and paragraph 130 of the National Planning Policy Framework (2021) which collectively seek to ensure that developments safeguard amenity for neighbouring occupiers.

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#### *Character and Appearance*

13. The appeal site includes the newly constructed road area of the driveway/close that provides access to two existing new detached houses that form a separate development and would also provide access to the proposal. The design for the close and its junction with Bannister Hill shown on the submitted plans appears to show a junction layout previously approved as part of the earlier approval<sup>1</sup> for the development of the two existing new houses that are accessed from the close, the details of which were conditioned and subsequently approved. Although the proposal does appear to include a slight widening of the roadway of the close away from the junction with Bannister Hill, the design of this junction would remain as approved and substantially completed.
14. The proposal does not, therefore, include any additional adjustments to this junction beyond those already approved and mostly implemented. Further, the Council have not provided any material that would indicate why the proposed addition of a single additional dwelling on the appeal site would result in an increase in traffic that would require any adjustment to the approved design of the junction of the driveway/close with Bannister Hill.
15. As no adjustments to the previously approved design of the junction are proposed and none are deemed necessary, I do not find that the proposal would result in any harm to the character and appearance of the local area or to the setting of the Borden-Harmen's Corner Conservation Area.

#### **Planning Balance and Conclusion**

16. Paragraph 11d, footnote 8 of the Framework states that where there are no relevant development plan policies, or the policies most important for determining the application are out-of-date (including housing, where the LPA cannot demonstrate a 5 year supply of deliverable housing sites), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
17. When this is the case, and as this appeal relates to the provision of housing, the need for the proposal to be considered against paragraph 11d is triggered. However, although the proposal must be determined within the context of paragraph 11d, I consider the Local Plan policies to be a material consideration within this decision, which carry full weight in so far as they conform to the Framework.
18. According to the Government's Housing Delivery Test: 2021, Swale Borough Council has a significant projected housing shortfall on that required. Nothing is before me to indicate that this position has changed.
19. As I have identified above, the appellant has not submitted material that would justify the significant harm to the living conditions of neighbouring residential occupiers, contrary to policies CP4 and DM14 of the local Plan. In light of the Council's housing land supply position, paragraph 219 of the Framework makes it clear that weight should be given to existing development policies according to their degree of consistency with the Framework. Section 12, paragraph 130 of the Framework recognises that development should promote health and well-being, with a high standard of amenity for existing and future users.

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<sup>1</sup> Planning Ref: 17/504348/FULL

Appeal Decision APP/V2255/W/22/3296580

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20. Even taking account of the objective of significantly boosting the supply of homes and the Council's supply position, the conflict between the proposal and policies CP4 and DM14 of the local Plan should be given significant weight in this appeal.
21. Set against the harm identified there would be social and economic benefits associated with the development. The appeal site is small in terms of its ability to provide housing, and the proposal would provide only a single additional dwelling compared to existing. Although a small contribution to the overall housing target within the Council area, small housing schemes do collectively make a significant contribution to the number of new residential units, and I have given this significant weight in my considerations. The proposal would also generate employment opportunities during its construction and through the employment of local services for its upkeep and maintenance when occupied. In connection with the single additional dwelling proposed, these benefits attract modest weight in favour of the proposed development.
22. Consequently, I conclude that the harm to the living conditions of neighbouring residential occupiers that I have identified, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
23. The proposal would conflict with the development plan as a whole and there are no other material considerations which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*Victor Callister*

INSPECTOR





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## Costs Decision

Site visit made on 22 November 2022

by **Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 29 December 2022**

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### **Costs application in relation to Appeal Ref: APP/V2255/W/22/3296580 Greystone, Bannister Hill, Borden ME9 8HU**

- 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 Ashbyrne Homes Ltd for a partial award of costs against Swale Borough Council.
  - The appeal was against the refusal of planning permission for Demolition of existing property and erection of 2 Five bedroom dwellings with associated parking and private amenity space
- 

### **Decision**

1. The application for a partial award of costs is allowed in the terms set out below.

### **Reasons**

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The decision notice issued by Swale Borough Council (the Council) gives 2 reasons for refusal, the second of which relates to requirements to provide site lines for the purposes of public safety on the highway and concomitant adjustments to landscaping and boundary structures adjacent to the highway. The council have concluded that these adjustments would create a development which would detrimentally impact the current appearance of this rural site and would negatively affect the setting of the Borden-Harmen's Corner Conservation Area, concluding that the harm to which would be less than substantial.
4. This reason for refusal is in fulfilment of Members' decision to refuse the application following a site visit. Although this decision did not follow the recommendation of officers for approval of the application, the decision makers were entitled to come to a different conclusion.
5. However, the appeal site shown on the submitted plans includes the newly constructed roadway area of the driveway/close that already provides access to two existing new detached houses, which form a separate development. This existing driveway/close would provide access to the proposal, however, the design for the driveway/close and its junction with Bannister Hill shown on the submitted plans appears to show a junction layout previously approved as part

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Costs Decision APP/V2255/W/22/3296580

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of the earlier approval<sup>1</sup>. This was for the development of the two existing new houses that are accessed from the close, the details of which were conditioned and subsequently approved. Although the proposal does appear to include a slight widening of the roadway of the close away from the junction with Bannister Hill, the design of this junction would remain as approved and as substantially completed.

6. The proposal does not, therefore, include any additional adjustments to this junction beyond those already approved as part of another planning approval and that has been substantially implemented. The Council have also not provided any material that would indicate why the proposed addition of a single additional dwelling on the appeal site would result in an increase in traffic which would require any adjustment to the approved design of the junction of the driveway/close with Bannister Hill.
7. As no changes to the junction of the driveway close with Bannister Hill are proposed or necessary, no harm the character and appearance of the local area or to the setting of the Borden-Harmen's Corner Conservation Area would result from the proposed development.
8. The applicant's appeal statement made this position clear and sought to clarify this aspect of the proposal, which they stated had resulted in an error being made with regard to the second reason for refusal given by the Council in the decision notice. Despite the clarifications given by the applicant, the Council have not taken the opportunity to withdraw their second reason for refusal to correct the mistakes in their assessment of the proposal in this regard. Therefore, the appellant has unnecessarily had to address these issues as part of their appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

#### **Costs Order**

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Swale Borough Council shall pay to Ashbyrne Homes Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing the second reason for refusal given in the Council's decision Notice; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Swale Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Victor Callister*

INSPECTOR

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<sup>1</sup> Planning Ref: 17/504348/FULL