



AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 9 March 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

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 March 2023.

Recording and Privacy Notice

Swale Borough Council is committed to protecting the security of your personal information. As data controller we process data in accordance with the Data Protection Act 2018 and the UK General Data Protection Regulation.

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.

If you have any questions about how we look after your personal information or your rights under the legislation, please email dataprotectionofficer@swale.gov.uk.

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. Minutes

To approve the [Minutes](#) of the Meeting held on 9 February 2023 (Minute Nos. 645 – 651) as a correct record.

4. Declarations of Interest

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

Part B Reports for the Planning Committee to decide

5. Planning Working Group

To approve the [Minutes](#) of the Meeting held on 21 February 2023 (Minute Nos. 672 - 673) as a correct record.

To consider application 22/503418/OUT Land at Tonge Road, Sittingbourne, Kent.

6. Report of the Head of Planning Services

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 8 March 2023.

Issued on Tuesday, 28 February 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

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

This page is intentionally left blank

SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

9 MARCH 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

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

This page is intentionally left blank

INDEX OF ITEMS FOR PLANNING COMMITTEE – 9 MARCH 2023

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

PART 2

2.1	22/505618/FULL	NEWINGTON	Land at School Lane
2.2	21/505041/OUT	EASTCHURCH	Land North of Lower Road
2.3	22/505674/FULL	LOWER HALSTOW	17 Heron Close Lower

PART 5

INDEX

5.1	22/500887/FULL	NEWINGTON	77 Playstool Road
5.2	22/501973/FULL	QUEENBOROUGH	2 Seaview Villas First Avenue
5.3	21/501791/PIP	NEWINGTON	Land At 164 Bull Lane
5.4	19/503511/FULL	MINSTER-ON-SEA	Cripps Farm Plough Road
5.5	22/501616/FULL	BOBBING	12 Keycol Hill
5.6	22/502523/FULL	MINSTER-ON-SEA	Gilron Bell Farm Lane
5.7	22/504236/FULL	IWADE	37 Holly Blue Drive
5.8	22/501832/FULL	SITTINGBOURNE	76-78 West Street
5.9	21/504232/FULL	BOBBING	Car Park Storage R/o Unit 2-4 Stickfast Farm
5.10	21/504770/ADV	SHEERNESS	Land at Brielle Way West End House
5.11	22/503855/FULL	FAVERSHAM	20 London Road
5.12	20/504895/LAWPRO	EASTCHURCH	Elmhurst Caravan Park Second Avenue

This page is intentionally left blank

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

Report of the Head of Planning

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

2.1 REFERENCE NO – 22/505618/FULL		
APPLICATION PROPOSAL Erection of 25no. residential dwellings with enhanced renewable energy features and the provision of a 20-space staff car park and 20 space pupil pick-up/drop-off area for Newington C of E Primary School, together with associated access, landscaping, drainage and infrastructure works (Resubmission of 21/504028/FULL).		
ADDRESS Land at School Lane, Newington, Kent, ME9 7JU		
RECOMMENDATION Grant subject to conditions and Section 106 agreement with delegated authority to amend the wording of the s106 agreement and of conditions as may reasonably be required.		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development would provide additional housing both market and affordable adjacent to a settlement identified on the settlement strategy as a tier 4 settlement. The proposal would also provide a car park for drop off and parking for the local school. Due to the Council's lack of 5-year housing supply the tilted balance in accord with the National Planning Policy Framework applies. The proposal benefits are considered, on balance, to outweigh the harm.		
REASON FOR REFERRAL TO COMMITTEE Parish Council Objection		
WARD Hartlip, Newington, and Upchurch	PARISH/TOWN COUNCIL Newington	APPLICANT Fernham Homes AGENT DHA Planning
DECISION DUE DATE 07/03/2023	PUBLICITY EXPIRY DATE 13/02/2023	CASE OFFICER: Alex Jelley

1. RELEVANT PLANNING HISTORY

1.1. 21/504028/FULL

Erection of 25no. residential dwellings and the provision of a 20-space staff car park and 20 space pupil pick-up/drop-off area for Newington C of E Primary School, together with associated access, landscaping, drainage and infrastructure works.

Refused for the following reasons:

"1. The proposed development would represent unjustified and unnecessary residential development within the countryside resulting in an urbanising impact, outside of the defined built-up area boundary, in a manner which is significantly and demonstrably harmful to the character, appearance, and intrinsic amenity value of the countryside. The proposal is therefore contrary to policies ST1, ST3, ST5, CP4, DM14, DM24, and DM26 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017, and the National Planning Policy Framework.

2. In the absence of a completed S106 agreement to secure relevant contributions and obligations, the development fails to mitigate the impacts of the additional residential

units on local services and infrastructure, fails to secure the provision of affordable housing, and fails to mitigate ecological impacts on the Swale and Medway Estuary Special Protection Areas and Ramsar sites, contrary to policies DM6, DM8, CP5, CP6, CP7, DM17 and DM28 of "Bearing Fruits" - The Swale Borough Local Plan 2017. Such contributions being required towards the following infrastructure - Highways, Air Quality, Primary Education, Secondary Education, Special Education Needs, Community Learning, Youth Services, Library Bookstock, Social Care, Waste, refuse bin provision, healthcare (NHS), Swale SPA and Ramsar Sites, open space and off site sport and recreation."

2. EXECUTIVE SUMMARY

- 2.1 Whilst the site is located outside of the defined boundary of Newington 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.
- 2.2 It would boost housing supply providing 25 units towards the Council's 5 Year Housing Land Supply. These factors carry significant weight in favour of the scheme.
- 2.3 It is considered that the proposals would not cause substantial harm to landscape character.
- 2.4 The S106 Agreement for SAMMS contributions and infrastructure costs will mitigate against the impact of the proposals on key services.
- 2.5 In terms of sustainable development, there would be some clear positive social impacts through the provision of housing and affordable housing, and some positive economic impacts through construction and local spending by future occupants.
- 2.6 Overall, the scheme is fully policy compliant. As the Borough still has not achieved a 5-year housing land supply when considered against the standard method the 'tilted balance' (NPPF Para 11d footnote 8) applies and the conformity with the development plan weighs further in favour of approval.
- 2.7 The findings of Gladman Developments Ltd v SSHCLG & Corby BC & Uttlesford DC [2021] EWCA Civ 104 were that the test of the NPPF can be encompassed under into the decision-making under s70(2) of the TCPA 1990 and s38(6) of the PCPA 2004 in one all-encompassing stage, as here the scheme is assessed as policy compliant and in accordance with the development plan the scheme is recommended for approval.
- 2.8 If members do not take the view that the scheme is policy compliant due to either the quantum of development and/or part of the scheme being outside the built-up area boundary, then this has two consequences. Firstly, as the 'tilted balance' applies in any event Policy ST2 contains a clause that schemes in compliance with National Policy outside the built-up area boundaries are acceptable. Which means then the excess number outside the built-up area boundary is acceptable and as such policies relating to the supply of housing cannot be considered up to date. This includes the Newington settlement boundary so this would trigger a presumption in favour of development under NPPF para 11d as the tilted balance has the effect of disapplying the built-up area boundary.

- 2.9 Whatever interpretation is applied the conclusion is the same; either a presumption in favour of the scheme because it is policy compliant or a presumption in favour of the scheme because it is not but with tilted balance then applying as part of the presumption in favour of development. The balance applied to the scheme is covered in Section 11, below.
- 2.10 The size of the scheme is useful in terms of the 5 Year Housing Land Supply, as the 25 units would likely take no more than 18 months to 2 years to complete – resulting in an almost immediate positive impact on supply. Getting the Borough back above 5 years would be a major achievement; placing it back in control over schemes not complying with the local plan.
- 2.11 The scheme is assessed and being in conformity with national policy and the local plan. It is recommended that planning permission be granted for the proposal subject to conditions and the completion of a Section 106 agreement.

3. DESCRIPTION OF SITE

- 3.1 The application site is located to the west of the Newington Church of England Primary School and gains access from the junction between School Lane and Breach Lane. The site forms the north-east corner of the field networks which lie to the south of Breach Lane. The eastern boundary of the site which separates the school from the site is subject to heavy vegetation.
- 3.2 The site is currently part of a wider agricultural unit and has informally been used as a temporary car park in connection with the adjacent school. The car park does not benefit from planning consent. A portion of the site is therefore not currently farmed and subject to compacted earth/hardcore. An informal access and gate are situated to the northern boundary.
- 3.3 The northern boundary of the site contains a degree of vegetation along Breach Lane which is subject to some gaps. Breach Lane and parts of School Lane are a designated rural lane under the Local Plan. Some temporary enclosure is seen to the southern and western parts of the site. However, this area is mainly open to views across the field network.
- 3.4 The site sits just outside of the built-up area boundary of Newington which terminates to the west of the school boundary (not including the western half of the school car park). The site is located outside of the Conservation Area and is not located within a countryside gap, or area of designated landscape.

4. PROPOSAL

- 4.1 The proposed development would be seeking to change the use of the land to provide residential accommodation (C3) and the provision of a School Car Park.
- 4.2 The proposed School Car Park would be located to the eastern boundary of the site with a pedestrian link to provide access to the school. The approximate area of the car park including the soft landscaping would be around 0.18 hectares. The car park would have a north south linear form.

- 4.3 The car park would be for school use and would provide 40 parking spaces. The proposed car park would see retention of the eastern boundary trees and would incorporate tree planting, soft landscaping, and pedestrian link to the school grounds. The vehicular access would be access of the proposed residential development from the junction between Breach Lane and School Lane
- 4.4 The proposed residential development would be located to the western half of the site. The approximate extent of the residential areas of the site, including areas of soft landscaping, would be 1.7 hectares. The primary access would be located along Breach Lane slightly set in from the juncture with School Lane.
- 4.5 The proposal would provide 25 residential properties. The properties would be two storeys in height. Of the 25 units, 9 would be detached, 10 semi-detached, 6-terraced units. The properties would effectively be broken into three cul-de-sacs. However, pedestrian links would allow for pedestrian access around the perimeter of the site.
- 4.6 The proposal would provide 10no. on-site affordable units and 15no. market dwellings. Each unit would be provided with electrical vehicle charging points. The provision would include 9-no. 4-bedroom properties, 11no. 3-bedroom properties, and 9no. 4-bedroom properties.
- 4.7 The site would include two SUDs ponds located to the northern boundary, and a reptile mitigation area to the north-western corner of the site. The boundaries would be subject to landscaping and would include seating and natural play equipment. An access would be located to the south-eastern corner to the wider agricultural fields.
- 4.8 The application is a resubmission of application reference 21/504028/FULL, which was previously refused by the Planning Committee for the following reasons:
- 1. The proposed development would represent unjustified and unnecessary residential development within the countryside resulting in an urbanising impact, outside of the defined built-up area boundary, in a manner which is significantly and demonstrably harmful to the character, appearance, and intrinsic amenity value of the countryside. The proposal is therefore contrary to policies ST1, ST3, ST5, CP4, DM14, DM24, and DM26 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017, and the National Planning Policy Framework.*
 - 2. In the absence of a completed S106 agreement to secure relevant contributions and obligations, the development fails to mitigate the impacts of the additional residential units on local services and infrastructure, fails to secure the provision of affordable housing, and fails to mitigate ecological impacts on the Swale and Medway Estuary Special Protection Areas and Ramsar sites, contrary to policies DM6, DM8, CP5, CP6, CP7, DM17 and DM28 of "Bearing Fruits" - The Swale Borough Local Plan 2017. Such contributions being required towards the following infrastructure - Highways, Air Quality, Primary Education, Secondary Education, Special Education Needs, Community Learning, Youth Services, Library Bookstock, Social Care, Waste, refuse bin provision, healthcare (NHS), Swale SPA and Ramsar Sites, open space and off-site sport and recreation*
- 4.9 As part of this resubmission, it is proposed that photovoltaic panels would be installed on all plots to address the comments from Members at Committee and SBC's Climate Change Officer made during the previous application.

- 4.10 The applicant has also set out what they believe to constitute a material change in the planning policy context since the Committee made its resolution and the decision notice was issued. On the 19th October 2022 SBC made the decision – at the Policy and Resources Committee - to *“postpone Regulation 19 consultation until the LURB gains Royal Assent/ there is greater certainty regarding national policy direction in relation to the local plan system planning”*.
- 4.11 The applicants suggest that this delay will slow the identification and allocation of housing sites through the local plan process significantly, thereby reducing housing supply and delivery. This, they point out, is set against a backdrop that SBC acknowledges that it cannot demonstrate a 5-year supply of housing. The applicants argue that this fundamentally changes the approach that should be taken to the site.
- 4.12 It is also worthy of note that the Applicants have submitted an Appeal against the refusal, which is due to be heard in the next few months.

5. PLANNING CONSTRAINTS

- Outside of the Built-up area boundary of Newington,
- Designated Rural Lane to the north of the site DM 26,
- 500m Buffer from Local Wildlife Site,
- 6km Buffer Special Protection Area – SAMMs payment,
- Agricultural Land (Best and Most Versatile),
- Brickearth,
- Public Right of Way to the west of the application site, though not close to the application boundary,
- (Conservation Area and listed buildings to the east of the site).

6. POLICY AND CONSIDERATIONS

Bearing Fruits 2031: The Swale Borough Local Plan 2017 Policies

- ST 1** Delivering sustainable development in Swale
- ST 2** Development targets for jobs and homes 2014- 2031
- ST 3** The Swale settlement strategy
- ST 5** The Sittingbourne area strategy
- CP 2** Promoting sustainable transport
- CP 3** Delivering a wide choice of high-quality homes
- CP 4** Requiring good design
- CP 5** Health and wellbeing
- CP 6** Community facilities and services to meet local needs
- CP 7** Conserving and enhancing the natural environment – providing for green infrastructure
- CP 8** Conserving and enhancing the historic environment
- DM 6** Managing transport demand and impact
- DM 7** Vehicle parking
- DM 8** Affordable Housing
- DM 14** General development criteria
- DM 17** Open space sports and recreation provision
- DM 19** Sustainable design and construction
- DM 20** Renewable and low carbon energy

- DM 21** Water, flooding and drainage
- DM 24** Landscape
- DM 26** Rural lanes
- 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)

7. LOCAL REPRESENTATIONS

- 7.1 Letters were sent to neighbouring occupiers, a notice was published in the press and a site notice placed in the vicinity.
- 7.2 55 letters of objection received from residents raising the following concerns:
- Lack of footpath link to village
 - Parking/access
 - Lack of services
 - Not in draft Local Plan
 - Wrong location
 - Loss of agricultural land
 - Ecological impact
 - Flood risk
 - Design/character
 - Air quality
- 7.3 **Newington Parish Council** object for the following reasons: -
- Air Quality
 - Highways Impact
 - Outside of settlement boundary
 - False justification (i.e. parking for school)
 - Loss of hedgerows
 - Ecological impact
 - Loss of agricultural land
 - Lack of services
 - Flood risk (surface water and foul sewage)

8. CONSULTATIONS

Environmental Health: No objection subject to conditions relating to air quality and contaminated land.

Natural England: No objection. SAMMS payment requested.

KCC Flood and Drainage Management: No objection subject to conditions relating to surface water drainage, verification report and infiltration testing.

KCC Highways: No objection subject to conditions relating to construction management plan, parking, EV charging, cycle storage, access, off-site highways works and traffic regulation order.

KCC Developer Contributions: No objection subject to contributions towards primary education, secondary education, youth services, libraries, social care and waste services being secured via Section 106 agreement to mitigate the scheme. Details of these are contained within Table 1, below.

Drainage Board: No objection.

KCC Ecology: Raised concerns with the biodiversity metric calculations. This matter can be dealt with by condition, as the concern relates to a technical matter rather than a principle issue.

8.1 **NHS:** No objection, subject to contributions towards refurbishment, reconfiguration and/or extension of Primary Care Estates Team Grovehurst Surgery and/or Maidstone Road Rainham Surgery and/or Green Porch Medical Partnership and/or Woodlands Family Practice and/or towards new general practice premises being secured by Section 106 contribution to mitigate impact.

Kent Police: No objection subject to conditions relating to Secured By Design principles.

Southern Water: No objection.

SBC Housing Officer: No objection subject to 40% Affordable Housing being provided on site with specific mix of tenures.

SBC Climate Change Officer: No objection subject to conditions to secure EV provision, energy strategy and water consumption.

KCC Minerals and Waste: No objection.

9. APPRAISAL

9.1 The main points of consideration as part of this application are:

- Principle
- Loss of Agricultural Land
- Landscape
- Design and Character
- Living Conditions
- Highways

- Biodiversity
- Water, Flooding, and Drainage
- Minerals
- Affordable Housing
- Sustainable Design and Construction
- Contamination
- Air Quality
- Archaeology
- Developer Contributions

Principle

- 9.2 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.
- 9.3 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 gains these should be sought jointly and simultaneously through the planning system.
- 9.4 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,
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 Newington (or indeed any of the other settlements covered by ST 1) and as such the proposal conflicts with the Local Plan 2017.
- 9.6 When considering the Bearing Fruits Local Plan, the Inspector imposed a five-year period for reviewing the Plan, to ensure that it remained up to date and commensurate with national policy. That time period has passed, and the plan is therefore ‘out of date’.
- 9.7 Furthermore, the Council can only demonstrate a 4.83-year supply of housing and as such cannot demonstrate a 5-year supply.
- 9.8 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, and the ‘Tilted Balance’ should apply to decision making.

- 9.9 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.
- 9.10 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.
- 9.11 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.
- 9.12 Whilst the site is located outside of the defined boundary of Newington and therefore is 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. Newington is defined as a Rural Local Service Centre by Policy ST3 (Swale settlement strategy). As such it is reasonable for this settlement to provide a tertiary, supportive role in the Council’s plans to deliver housing to meet its housing need.
- 9.13 Newington has a reasonable array of services within walking distance of the site, including a train station, pub, school, shops, access to bus routes, and a cricket club. As such, it can be said that the site is in a sustainable location for the purposes of Paragraph 10 of the NPPF.
- 9.14 The lack of a five-year housing land supply, and the fact that the Local Plan is out of date carries significant weights in favour of supporting the principle of the development, subject to other relevant planning considerations discussed in detail below.

Loss of Agricultural Land

- 9.15 Policy DM 31 of Swale Local Plan indicates that development on agricultural land will only be permitted where there is an overriding need that cannot be met on land within the built-up area boundaries. The policy indicates that development on Best and Most Versatile agricultural land (specifically Grade 1, 2, and 3a which is referred to as best and most versatile land – BMV) will not be permitted unless three criteria have been met.
- 9.16 As stated above, the site is utilised for agricultural purposes. The land in question comprises approximately 1.88 hectares of arable field.
- 9.17 The application includes a Supporting Letter from George, Webb Finn in relation to the loss of agricultural land.
- 9.18 Based on the relatively detailed 1976 Soil Survey it is indicated that the land is likely to fall within the “Hamble” soil series. The soil identified by the soil is a fine sandy or silty loam which is of the highest quality in the area. The consultant considered that without evidence to the contrary the loss of the BMV land as a negative impact.

- 9.19 It was noted that third parties had raised concerns regarding further potential development on adjacent land. Such statements cannot be considered as planning applications have to be assessed on their own merits.
- 9.20 Policy DM 31 of the Local Plan includes a method for assessing proposals for development on agricultural land. The three criteria are as follows:
- A. The site is allocated for development by the Local Plan; or*
 - B. There is no alternative site on land of a lower grade than 3a or that use of land of lower grade would significantly and demonstrably work against the achievement of sustainable development work against the achievement of sustainable development; and*
 - C. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land*
- 9.21 The council cannot currently demonstrate a 5-year housing land supply. The local plan is also out of date. The allocation of land for housing is insufficient. A high proportion of the Borough is subject to BMV land. Currently windfall schemes are utilised as a means of providing housing to address the identified need in the Borough.
- 9.22 The site is in reasonable proximity to Newington, which is one of the higher settlements within Swale's settlement strategy. Newington contains a good degree of social amenities, public transport, and other infrastructure. The site is placed in an area which is not totally removed from existing infrastructure and the sustainability of the scheme will be further considered below.
- 9.23 The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land.
- 9.24 The agent submitted a statement regarding the overall agricultural unit. The statement identifies that site forms part of a wider 1,252Ha landholding which is utilised for a diverse farming operation. Of this land 945.44 Ha is arable, 118.96 Ha is grass, and 87.74 Ha are coppice woodland. The statement identifies the loss of the site comprising 1.88 Ha would not have a negative effect on the farming operation regarding viability or operationally. The loss of land would equate to roughly 0.16% of the agricultural holding.
- 9.25 Given the wider scale of the agricultural holding it is not considered that the land loss would undermine the viability of the holding. The agent did put forward further benefits to the scheme including monetary re-investment in the wider agricultural unit including to biodiversity and net zero targets following DEFRA's Spring 25-year Environment Plan goals. These benefits will not be included in the balance as they are located outside of the red line boundary.
- 9.26 The proposal would be considered to retain the viability of the agricultural holding. The proposal would include an access to the remaining land which would support the continued farming of the land adjacent to the site. Further, there is no evidence to suggest that further land would be lost as a result of consideration of this application.

9.27 As such it is considered that the proposals are acceptable in relation to the loss of agricultural land and are in accordance with the requirements of Policy DM31 of the Local Plan and the NPPF in that regard.

Landscape

9.28 Policy CP 7 of the Local Plan states that the Council will work with partners and developers to ensure the protection, enhancement and delivery, as appropriate, of the Swale natural assets and green infrastructure network. These include strengthening green infrastructure and biodiversity.

9.29 Policy DM 24 of the Local Plan states that the value, character, amenity, and tranquillity of the Boroughs landscapes will be protected, enhanced, and, where appropriate, managed. The policy is split into parts with part B applying to this site.

9.30 The application site is not located within either a national, Kent or local land designation.

9.31 Part B of policy DM 24 relates to non-designated landscapes. It states that non-designated landscapes will be protected and enhanced, and planning permission will be granted subject to;

1. The minimisation and mitigation of adverse landscape impacts,
2. When significant adverse impacts remain, that the social and or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.

9.32 With respect to the Swale Landscape Character and Biodiversity Appraisal 2011, the site is located within the Upchurch and Lower Halstow Fruit Belt landscape designation. The site sits on the edge of this designation due to its proximity to the built area of Newington.

9.33 The key characteristics of the area are detailed as being small to medium-scale rural landscape with a strong sense of enclosure, small, nucleated villages with historic centres and modern urban expansion on periphery, undulating landscape with occasional long views to north and south, fragmented structure of mature hedgerows and shelterbelts surrounding orchards, pasture, and arable fields.

9.34 The landscape condition and sensitivity of the landscape is moderate. The sensitivity identifies that structure is provided by the hedgerows and shelterbelts, while fragmented, assists in screening views. The undulating topography is also considered to assist in screening the areas of settlement. The area is moderately visually sensitive.

9.35 The application site forms a part of a wider field pattern which extends to the west of the Newington. The eastern boundary of the site is formed of a strong tree line which separates the school from the field. The site is not however currently separated by a natural boundary. The site would therefore be visible from views from the west and south.

- 9.36 The field due to the scale and undulating landscape has some typical elements of the Kentish countryside. The field boundaries are strong and do create a sense of enclosure when the site is viewed from public roads. However, the field itself has a more open character.
- 9.37 The development would sit against the strong tree line which sits adjacent to the school which currently forms a strong boundary between the site and containment of Newington. While the proposal would sit outside of this boundary its scale is not disproportionate to overall urban confines of Newington.
- 9.38 Screening has been proposed along the field boundary which would take a period to establish. However, this would mute the overall impact of the development to the wider rural views. A landscape scheme would be required via condition to ensure trees of a specific standard are secured. The additional benefit of additional trees and vegetation would see ecological gains.
- 9.39 The proposal would have more immediate impact rather than longer wider implications to landscape views. The undulation of the natural topography of the area would be retained and would work to aid in reducing the overall view/impact of the proposal.
- 9.40 To the west of the application site runs a Public Right of Way (namely ZR38, which is located a minimum of 267 metres from the application site) which sits at a higher level to the application site and runs in a west/east trajectory towards Newington. The Public Right of Way would provide a view of the development site.
- 9.41 The views from the Public Right of Way would result in some harm regarding visual impact as highlighted by Huskinson Brown. However, the elevated position of the right of way does place the development at a lower level to the natural rise and fall of landscape which would mean the proposal would not appear as a significantly prominent addition.
- 9.42 Comments from Huskinson Brown on the previous application also highlighted concerns relating to the setting of the Church tower. While this is addressed below against heritage assessment. The development is limited to 25 units, and this proportionately would leave a significant portion of the field. The rural setting would still be clear when traversing the Public Right of Way and from other public settings such as the transitory views from the railway.
- 9.43 Policy DM 26 of the local plan seeks to ensure that development would not physically or because of traffic levels harm the character of rural lanes. The lane to the north of the application site is a rural lane as identified by policy DM 26.
- 9.44 The proposal, as below, is not considered to result in a severe impact to the local highway network. Due to the narrow nature of the lane, it is likely that vehicles would travel to the east along School Lane. The traffic levels would not be considered so significant that the tranquillity of the lane would be significantly altered.
- 9.45 The developer has provided a section and a plan of the works to take place along the rural lane. A large degree of the existing vegetation would be retained along the road and then reinforced with native trees. Some section of the existing vegetation would be removed to allow for visibility splays. A hedge would be provided set back from the road to ensure vegetation is retained along the road.

- 9.46 The boundary adjacent to the lane would include post and rail fencing to reinforce the sense of ruralism. The character of the lane would be considered conserved and reinforced with additional planning.
- 9.47 The site would provide the opportunity for wide tree cover. Detailed landscaping plans have been provided and adjustments to the proposed layout were undertaken to ensure that residential pressure to reduce tree cover is reduced. Any approval would be conditioned to ensure that the proposal would retain existing tree coverage.
- 9.48 Having considered the submission and visited the site, it is considered that the LVIA thoroughly considers the baseline position, the impact of the proposed development on landscape character, and the impact of the proposals from a visual amenity perspective. The mitigation measures proposed will inevitably take some time to mature but would lead to an appropriate form of development that does not have a material negative impact on either the landscape character of the surrounding area or the visual amenity of those residing in it or visiting it for recreation.
- 9.49 As such it is considered that the proposals would not cause substantial harm to landscape character and are therefore in accordance with the requirements of Policies ST6, CP4, CP7, DM24 and DM29, as well as the NPPF, in so far as they have regard to matters of landscape visual impact.

Design and layout

- 9.50 Policy CP4 of the Local Plan requires all developments to achieve high quality design, appropriate to its surroundings, that creates attractive places, promotes, and reinforces local distinctiveness and strengthens sense of places.
- 9.51 Policy ST5 seeks to provide housing in locations where the role and character of the Sittingbourne area is maintained / enhanced and where the character, appearance and setting of the towns heritage assets are protected and enhanced.
- 9.52 Policy CP7 seeks to ensure that development comes forward in a manner that conserves and where possible enhances the Borough's natural environment. Policy DM24 looks to restrict development where it would have a negative impact on valued landscapes. Policy DM29 provides protection for existing woodlands, trees, and hedges.
- 9.53 The Government at paragraph 127 (a) – (d) of the revised NPPF attach great importance to the design of built development. It goes on to advise that planning decisions should ensure that development will function well and add quality of the overall area; not just for the short term but over the life time of a development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the built environment and landscape setting, while not discouraging appropriate innovation and change; establish or maintain a strong sense of place, using the arrangements of streets, space, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

- 9.54 The National Design Guide illustrates how well-designed places that are beautiful, enduring, and successful can be achieved in practice. It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools.
- 9.55 The proposed development would see the provision of a car park to be utilised by Newington Church of England School would be located to the east of the application site. The car park would sit in a linear form, soft landscaping treatments would be provided to around the car park and some trees would be located along side to break up the use of hard surfacing. The degree of landscaping and the linear form would ensure the car park would sit comfortably within the context of the site.
- 9.56 The proposal would see a main spine road utilised as the main access point to the development. Three cul-de-sacs would be located off the spine road. The cul-de-sacs would be connected by a pedestrian pathway to allow pedestrian movement across the site. The use of permitter blocks can provide continuous access, however, in a such a rural area this would increase the degree of hardstanding and placements of cars which would work against a sense of rural tranquillity and reduce the degree of walkable pedestrian only areas. A condition could be secured by Members to ensure rights for pedestrians to access this area is secured.
- 9.57 The development has been designed to ensure that the exposure of the rear elevations to the site are kept to the minimum. Some exposure will be seen to units 24 and 25 for which the rear elevations face the car park. These have been well detailed to ensure the face has interest and provides a degree of overlooking to the car park.
- 9.58 Corner turner units and details side elevations have also been used across the site to ensure overlooking of public spaces and provide interest along the public realm. Enclosure details would ensure brick walls facing the public realm and detailing to the rear of properties would ensure units with public facing rear elevations would retain sufficient detailing.
- 9.59 A character study of the area was undertaken as part of the proposal. The assessment did identify several building forms in the area. The assessment identifies several key characteristics of the area including facing brickwork (painted white), vertical tile hanging, and render. The assessment also identified an emphasis on well-proportioned wide fronted dwellings, a variety of roof forms with low eaves, secondary gables, and dormer windows.
- 9.60 The properties in the wider area do vary in form and the architecture derives interest in the street scenes. The materiality and fabric are however reflective of Kent which does see brick and tile hanging used constantly across the county. The proposals position behind the school would mean the dwellings would not continue a street scene but create an individual pocket of development.
- 9.61 The proposed dwellings would have a traditional bulk and massing. The properties would be two storeys and comprised of a variety of tenures including terraces, semi-detached and detached. The units market mix would see predominately 4no. and 3no.bedroom units which is a departure from the mix guidance under policy CP 3. However, when looking inclusive of the affordable units a good provision of 2no., 3no. and 4no.bedroom units has been provided.

- 9.62 The proposal would reflect the wider design and materiality of the local area. The use of tile hanging, and brickwork is typical of the Kentish countryside and indeed Newington. A condition would secure details of the proposed materials to ensure the quality of the bricks and tiles.
- 9.63 The dwellings would contain pitched roofs which would be broken up by gable detailing to several the units. Porches, brick banding, window coins, and proportionate openings (windows) would draw interest to the elevations. The properties would be considered to reflect the local architectural vernacular.
- 9.64 A varied use of hard surfaces would be applied across the site including block paving and tarmac. The materials would be used to differentiate shared spaces. The use of block paving would break up the use of tarmac. Further, details of the surfaces would be secured by condition to ensure high quality fabric across the site.
- 9.65 To ensure the site retained a sufficient degree of rural character enclosures would need to reflect the environment the site is located within. Details of means of enclosure around the site would be conditioned. Post and rail fencing, and landscaping would be required to ensure the character of the area is conserved as expected with rural development.
- 9.66 The proposal would provide a degree of open space around the peripheral parts of the site to allow landscaping and public areas within the site. The proposal has included natural play equipment within the open space to provide enhanced interaction with the space. SUDs ponds and wildlife areas would also add to the variety of the landscaping, which is lacking on site, except for the north and eastern boundaries.
- 9.67 Kent Police have responded without objection but have asked for a Secured by Design condition to ensure that the Reserved Matters application is accompanied by sufficient detail. This is a reasonable request, and one that will ensure the scheme meets the policy requirements in this regard.
- 9.68 As a result, it is considered that the proposals meet the requirements of Policies ST6, CP4, CP7, DM24 and DM29, as well as the NPPF, in so far as they have regard to matters of layout, design and character.

Heritage

- 9.69 The council is required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
- 9.70 Policy 32 of the Local Plan sets out the policy background for the protection, preservation, and enhancement of listed buildings. Policy 34 does likewise for archaeological sites. Policy CP 8 of the Local Plan seeks to ensure that developments will sustain and enhance the significance of designated and non-designated heritage assets

- 9.71 Policy DM 33 of the Local Plan states that development affecting the setting of, or views into and out of a Conservation Area, will preserve or enhance all features that contribute positively to the area's special character or appearance.
- 9.72 With regards the revised NPPF, chapter 16 sets out government advice on conserving and enhancing the historic environment. Paragraph 195 sets out its guidance where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset. Paragraph 196 advises on development proposals which will lead to less than substantial harm to the significance of a designated heritage asset. The paragraph goes on to say that the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Paragraph 201 informs that not all elements of a conservation area will necessarily contribute to its significance.
- 9.73 The applicant has provided a Heritage Statement within the application pack. The assessment identifies the relevant assets and provides the relevant descriptions of the assets in accord with the requirements of the National Planning Policy Framework. The application site is not subject to any designated heritage buildings and is not within the Newington Church Conservation Area. The application site is located approximately 170m from the Newington Church Conservation Area, which is located to the east of the application site.
- 9.74 The Newington Church Conservation Area is mainly focused on the Grade I listed Church, St Mary's. The significance of the Conservation Area is derived from it forming the historic core of the Parish of Newington, with the central focal point being the Church. As identified by the Conservation Officer Church Farmhouse and the Oast House, which are Grade II listed buildings, contribute to the special character and appearance of the Conservation Area through the group value associated with the Church.
- 9.75 An additional listed building, the Parsonage House is also located close to the application site but outside of the Conservation Area. Although the Conservation officer notes that its setting is dominated by existing housing.
- 9.76 The listed buildings, as a group, contribute to the character of the Conservation Area due to their associative relationship.
- 9.77 The Conservation Officer provided comments in relation to the previous scheme which are relevant to this one.
- 9.78 The Conservation Officer considers the functional and aesthetic relationship with each other and the alignment with Church Road and Iwade Road add to the overall significance. The associations are considered to have positive contributions to the significance of these buildings, in providing a context in which an observer can appreciate the layout and hierarchy of the earlier settlement.
- 9.79 In assessing the Conservation Officers comments in relation to the Conservation Area, the listed buildings group association provide a visual understanding of the hierarchy of the historic core of the village. Indeed, the church and its associated buildings would have formed an important centre to the village. The area covered by the Conservation includes the Church, a few houses and the wider fields which extend to the north and north-east.

- 9.80 The value of the Conservation Area is therefore primarily seen within its centre and between immediate views of the group of listed buildings. The rural setting of the Church is important hence the inclusion, within the Conservation Area, of the fields to the north of the Church.
- 9.81 While the Conservation Officer's observation in relation to the rural setting of the Church is noted, the value of the rural setting has already been somewhat eroded by the post war development along Church Road and extending along School Lane. The development appears post war and significantly densified the approach along Church Lane.
- 9.82 The proposed development would be located some distance to the west of the Church and the associated Conservation Area. Further, the significant tree cover along the eastern boundary of the site would mean the development from within the Conservation Area would be limited. The development would not disrupt the group relationship of the listed buildings and the association with the Church.
- 9.83 The main area of concern relates to the setting of the Grade I listed Church. The Officer noted that the development was some distance from the church. However, identified that the Church is located on raised ground, which has the effect of making the tower a visible feature from the surrounding area. The tower is considered a key and notable feature in the wider landscape for many centuries.
- 9.84 The views of the Church tower can be derived from the public footpath which is located to the west of the application site which runs across the extent of the field in a west to east trajectory. The view from the field of the tower is considered, by the Conservation Officer, to result in an intervisibility between the Church and the application site. These are considered to contribute to the significance of the Church derived from its rural setting.
- 9.85 The Officer has considered 'less than substantial harm' would derive from the proposal erosion and urbanisation of the field and reduce the openness of the site, which in turn contributes to the rural setting of the Church. The identification that this harm is moderate on the scale of 'less than substantial' is made by the Officer.
- 9.86 The proposal would introduce built form into the north-east corner of the field, and views of the development would be derived from the public footpath (for which the tower can be observed).
- 9.87 However, it should be noted other residential development can be observed from the footpath and that due to the footpath's separation from the site and the village the views would still include the larger extent of the field.
- 9.88 The development would consist of 25 units and would be set with landscaped boundaries introducing tree cover and grassland. The expansion is not so significant as to be disproportionate to the twentieth and twenty-first century development which already forms part of the setting to the Church, Conservation Area, and listed buildings. The views would not therefore remove the semi-rural setting of the area given the wider extent of the field and the existing fields which surround the immediate context of the Church from within the Conservation Area.

9.89 The Heritage Statement submitted with the application considers the introduction of residential development in this section of the field broadly in line with the existing character and setting of the built heritage assets. It further concludes that the proposal aligns with much of the existing setting and contains measures to retain the semi-rural character. The report concludes no harm to the significance of the built heritage.

9.90 Paragraph 202 of the National Planning Policy Framework states that:

'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 of the proposal including, where appropriate, securing its optimum viable use'.

9.91 As less than substantial harm is evidenced, the public benefits of the proposals must be considered. In this instance it is determined that the public benefits of the proposals (i.e. the socio-economic benefits from the provision of housing) outweigh the less than substantial harm caused by the proposals.

9.92 As such I consider that the statutory test in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the associated policies of the NPPF and local plans are passed.

Living conditions

9.93 Policy DM 14 of the Local Plan provided general development criteria and requires that development does not result in significant harm to amenity. Paragraph 130 of the NPPF states that decisions should ensure high standards of amenity for existing and future users.

9.94 As a rule, 21m is considered sufficient to prevent a significant impact upon living conditions relating to daylight/sunlight, visual intrusion to outlook and privacy. The closest existing residential development is located to the north-east of the site in the new development leading from School Lane and those dwellings extending to the east of the school.

9.95 No residential dwellings are near the northern, southern, and western boundaries. The impact would mostly be felt to the eastern boundary. However, a significant tree belt is located along the eastern boundary of the site which would be retained. The distance between the closets proposed residential unit and an existing property in Newington is sufficient to prevent a significant loss of daylight, sunlight, or privacy to existing units.

9.96 Views are not protected under planning legislation. The separation distance between the proposal would be sufficient to prevent the development, which would be limited to two storeys, resulting in visual intrusion to outlook. Overall, the proposal would not result in a loss of amenity pertaining to daylight/sunlight, outlook, or privacy.

9.97 The proposal would see an uplift in vehicle movements regarding the residential development. However, the upturn for 25 units would not be considered so significant as to result in unacceptable noise implications to residents. Further, the proposal would see a dedicated drop off and pick up location associated with the school which would relieve pressure on pausing and idling vehicles along School Lane during the working week.

- 9.98 The Environmental Health Officer has commented on the proposal and did not consider that a noise survey was required pre-determination. The buffer present by the trees and the local of the school to house would mean noise levels are unlikely to reach an unacceptable level.
- 9.99 The construction period of a development is not material to the acceptability of a proposal. However, details of dust management, construction hours, and construction management plan could be secured via condition to ensure that development mitigates impacts during a construction period.
- 9.100 The proposed units would have dual aspect views which would allow sufficient outlook and allow natural light to filter into the dwellings. Revised plans to align the dwellings to the eastern boundary have ensure limited impact from the adjacent tree belt to rear amenity spaces.
- 9.101 The dwellings have all been plotted to ensure external access to the front of properties to ensure that waste and refuse can be collected without the requirement to bring waste through the internal floor space.
- 9.102 The layout has been designed to achieve rear to rear alignment that would allow 21m which is the recommended distance to ensure sufficient privacy. In the places that a closer relationship exists the orientation of the properties reduces the overall overlooking with 11m achieved between side to rear alignment.
- 9.103 The proposed properties would all benefit from sufficient private outdoor amenity space. The site is also located in such a position that access to the countryside is readily available. The proposed access would include an extension of the footpath to School Lane allowing wider accessibility to Newington. The permeability of the site for pedestrians would also allow for access around the site which would be well landscaped.
- 9.104 The proposed car park would result in vehicle movements within the site. However, these movements would be isolated to specific times of the week and day and would not be considered overtly harmful to living conditions. Further, conditions to restrict lighting to the car park to bollard lighting could be applied by members.
- 9.105 Overall, the proposal is considered to harmful to the living conditions of existing and future occupiers. The scheme is considered, therefore, to meet the requirements of Policy DM14 of the Local Plan.

Highways

- 9.106 Policy DM 6 of the Local Plan seeks to manage transport demand and impact. Policy DM 7 of the Local Plan provides guidance on parking standards alongside the Swale Borough Council Parking Standards SPD.
- 9.107 Paragraph 111 of the National Planning Policy Framework states that:

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

would be severe’.

- 9.108 The revised Transport Statement indicates that the proposal would generate 12 two-way movements (4 arrivals and 8 departures) on Church Lane in the AM peak hour. In the peak PM hours 10 two-way movements (7 arrivals and 3 departures) would occur. The Highways Officer note that 1 additional movement every 5 minutes on average would be considered to have a negligible impact on the operation of Church Lane in the context of existing traffic flows (School drop off).
- 9.109 The proposal will impact the Key Street roundabout on the AM and PM peak hours due to the generation of 14 additional vehicle movements. As such, Highways have identified a financial contribution of £34,056.96 due to the additional traffic volume that would adjoin the Key Street roundabout. The amount is costed at £2,432.64 per movement.
- 9.110 The Highways Officer commented that the proposal would generate an additional 20 parking spaces and drop off area for the school. The assessment was based on the existing informal parking area. However, the existing parking area is not subject to planning permission and therefor the gain would equate to 40 additional spaces.
- 9.111 The Highways Officer considers that the circulation space that the proposal would generate would remove parking demand and pressure from School Lane. The provision of this this space would be considered to be an improvement to the current situation on School Lane.
- 9.112 The proposal would also secure additional improvements to School Lane, these would include the widening of School Lane between the school and the proposed access to allow two vehicles to pass one another without overrunning the verges. The addition of a 1.8m wide footway on the southern side of School Lane, and a crossing to a 1.5m wide footway on the northern side of School Lane. These improvements would allow pedestrians to walk along School Lane separated from vehicular traffic. This would allow continuous pedestrian access into Newington.
- 9.113 The alterations to School Lane would also include the introduction of waiting restrictions to prevent parents parking on the widened section of road. Further, the proposal would seek to extend the 30mph speed limit. These would be secured through Traffic Regulation Orders, which would need to be submitted by the developer to Kent County Council.
- 9.114 The proposal would allow for refuse vehicles to traverse through the site and exiting in a forward gear.
- 9.115 KCC Highways are satisfied with the degree of parking provided. Visitor spaces exceed the requirements and would allow for parking on site if required. The parking provides a balance between reducing the degree of hardstanding in the rural location and meeting parking guidance.
- 9.116 The proposal would also provide a car park for Newington Church of England School. The Swale Parking SPD recommended 1 parking space per staff member plus 10% for primary Schools. Based on current staff numbers a requirement for 38 parking spaces and the school has an under provision.

- 9.117 The proposal would increase the degree of staff parking and provide a dedicated drop off zone for parents and students. The benefits of this would be an improvement to the traffic flows along School Lane/Church Lane. KCC Education have responded to the preproposal indicating the current temporary parking area has seen improvements in traffic flows in peak hours and a reduction in idling cars in accord with the school.
- 9.118 KCC Highways have commented that the proposed car park would result in an improvement from the current situation. The additional parking spaces and circulation spaces away from School Lane would remove parking demand and pressure from the existing highway.
- 9.119 The proposal would not be considered to result in a severe impact to the local highway network and would see some improvements to the pressure on surrounding roads during peak hours in relation to the school.
- 9.120 Based on the above, I am content that had the scheme would not conflict with policies DM6 and DM7 of the Local Plan and would not lead to unacceptable highway impacts

Biodiversity

- 9.121 Paragraph 40 of the Natural Environment and Rural Communities Act, under the heading of ‘duty to conserve biodiversity’ states “every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.”
- 9.122 The Local Plan at Policy DM28 seeks for proposals to conserve, enhance, and extend biodiversity and provide for net gains in biodiversity where possible.
- 9.123 The revised NPPF at chapter 15 ‘conserving and enhancing the natural environment’ sets out government views on minimising the impacts on biodiversity, providing net gains where possible and contributing to halt the overall decline in biodiversity.
- 9.124 The application was accompanied by an Ecological Impact assessment. The site is currently mainly comprised of compacted earth for the car park and arable farmland with vegetation to the northern and eastern boundaries. The sites context means that there is little protected species of interest on site.
- 9.125 The report indicated the presence of a small population of slow worms. Mitigation in the form of on-site translocation to the proposed areas of grassland. KCC Ecology consider that this would be an acceptable form of mitigation and could be secured by condition if members were minded approving the application.
- 9.126 The potential for other protected species onsite including further reptiles, dormice, badgers for foraging and commuting. Further breeding bird may be located along the boundary vegetation. As a result, KCC Ecology have suggested a precautionary approach during construction. Again, this could be secured via condition, as suggested below.

- 9.127 Further to the use of the site for forging and commuting, to ensure mitigation against the potential adverse effects of lighting on bats a condition to secure the sensitive lighting design would be secured via condition.
- 9.128 Under section 40 of the NERC Act (2006), paragraph 174 of the NPPF (2021) and the Environment Act (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2021, the implementation of enhancements for biodiversity should be encouraged.
- 9.129 The submitted biodiversity net-gain report shows that a net-gain can be achieved. Primarily, this is achieved through native species planting and creation of a variety of habitats, including wildflower grassland (one of the most valuable additions for biodiversity). The report indicates a net increase of 2.51 habitat units (69.03%) and a net increase of 7.43 linear units (50.24%).
- 9.130 While the landscape management could be secured through section 106 obligation. To ensure appropriate management to secure meaningful ecological enhancement a condition would be applied to any grant of consent securing a Landscape Ecological Management Plan.
- 9.131 As noted by both Natural England and KCC Ecology the site is located within a 6km buffer of the designated European sites the Swale SPA and Ramsar sites. The proposal would result in a net increase in residential dwellings which can have an associated recreational pressure on these sites. As a result, and appropriate assessment will be undertaken below.

Appropriate Assessment

- 9.132 The application site is located within the 6km buffer of (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations) and Wetland of International Importance under the Ramsar Convention.
- 9.133 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.
- 9.134 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The 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.
- 9.135 The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£275.88 per dwelling as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are ecologically sound.

- 9.136 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.
- 9.137 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.
- 9.138 The proposal would have an impact upon the SPAs; however the scale of the development (25 residential units) is such that it would not be considered, alongside the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff, that the impacts would be significant or long-term.
- 9.139 Based on the potential of 25 residential units being accommodated on the site A SAMMS contribution of up to £6,897.00 could be secured under the Section 106 agreement. The legal agreement could be worded such that it sets out that the SPA mitigation contribution is to be secured prior to the occupation of any dwelling. Therefore, taking into account the above it is considered that there will be no adverse effect on the integrity of the SPAs.
- 9.140 Finally, it can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others. (<https://birdwise.org.uk/>).
- 9.141 The County Ecologist has responded positively to the submission, raising no objection to it. They have asked for three conditions to be attached to any approval, as set out above. These are considered to meet the tests and will ensure that the scheme contributes positively to the Council’s aims in relation to ecological conservation and enhancement.
- 9.142 Natural England have responded to the scheme with a standard no objection response, requesting SAMMS contributions.
- 9.143 As such it is considered that the proposals are in accordance with the requirements of Policy DM28 of the Local Plan and the NPPF in so far as it has regard to ecology/biodiversity.

Water, Flooding, and Drainage

- 9.144 The Local Plan as Policy DM21 sets out a raft of criteria aimed at preventing or reducing flood risk.
- 9.145 The revised NPPF at chapter 14 sets out government views on how the planning system should consider the risks caused by flooding. The planning practice guidance under the chapter titled ‘flood risk and climate change’ gives detailed advice on how planning can take account of the risks associated with flooding in the application process.

- 9.146 Local Plan Policy CP7 requires new development to be supported by the timely delivery of green infrastructure, including SuDS.
- 9.147 The NPPF at paragraph eight and elsewhere identifies the provision of infrastructure as part of the economic role as one of the three dimensions of sustainable development.
- 9.148 The PPG under the chapter entitled ‘water supply, wastewater and water quality’ at paragraph 20 provides advice on the considerations that apply in areas with inadequate wastewater infrastructure. The PPG explains that if there are concerns regarding the capacity of wastewater infrastructure, applicants will be asked to provide information as to how wastewater will be dealt with. The PPG goes on to provide advice on several scenarios regarding the preference to connect to the public sewerage system and the acceptable alternatives.
- 9.149 KCC Flood and Drainage have raised no objection to the scheme, subject to the imposition of conditions. The same is true of Southern Water and the Drainage Board. As such it is considered that the proposed development, with appropriate conditions, would have a suitable approach to flood water, surface water drainage and foul water.
- 9.150 The imposition of the required conditions ensures that the scheme is capable of meeting the requirements of Policies DM21 and CP7 of the Local Plan with respect to flood risk and drainage.

Minerals

- 9.151 A Minerals Safeguarding Assessment was provided as part of the application by RPS Consulting service. The assessment provided an overlay of the Mineral Safeguarding Area as defined for Brickearth by the British Geological Survey. The overlay indicates that only a small corner to the north-west of the site is located within the safeguarding area, which includes a limited developed area.
- 9.152 The area within the Mineral Safeguarding Area is less than 0.25 hectares. As part of the application the only Brickearth user in the area was contacted (Weinberger Ltd). Weinberger Ltd stated that they were not interested in the site as a source of Brickearth as it would not be viable to extract the mineral.
- 9.153 Kent County Council Minerals and Waste were consulted on the application and found no objection to the proposal. The proposal would not present a viable extraction area and would not conflict with Policy DM 8: Safeguarding Minerals Management, Transportation, Production and Waste Management Facilities of the adopted Kent Minerals and Waste Local Plan 2013-30.

Affordable Housing

- 9.154 Policy DM 8 of the Local Plan identifies that for development proposals of 11 or more dwellings there will be a need to provide affordable housing. The policy requires the provision of 40% affordable units in rural areas. The size, tenure and type of affordable housing would be provided in accord with the needs of the area.

- 9.155 The proposal would provide a policy compliant on-site provision of 40% which would equate to 10 units. The units would be distributed across the site which would provide good social integration. The proposal would provide 5 – 2-bedroom units and 5 – 30 bedroom units.
- 9.156 The guidance of policy CP 3 indicates a requirement for 1-, 2-, 3- and 4-bedroom dwellings. The split would not reflect this guidance. However, given the location of the site the provision of 1 bed units usually provided in a flatted form and 4- bedroom units might disrupt the grain of development and an onsite provision is welcomed.
- 9.157 Paragraph 7.3.8 of the Local Plan provides guidance for the tenure associated with the affordable housing requirement which seeks an indicative target of 90% affordable/social rent and 10% intermediate products.
- 9.158 The Housing Officer has indicated that due to a Written Ministerial Statement and amendments to the National Planning Policy Guidance a minimum of 25% of all affordable housing units should be provided as First Homes. When taking account of the new First Homes requirements, the remaining 75% of s106 affordable housing should be secured as social rented.
- 9.159 The provision of a 25% First Homes and 75% socially rented tenure was sought in line with the emerging government guidance. However, in regard to providing on-site provision which is the Council's preferred provision the Registered Providers would not accept the lower provision (7 units) they would be offered if implementing a 25% provision of First Homes.
- 9.160 As such, the offered position of 50% affordable rent and 50% shared ownership was considered acceptable by the housing officer in the provision of on-site affordable housing.

Sustainable Design and Construction

- 9.161 Policy DM19 requires developments to address climate change and reduce carbon emissions in new developments. The policy does not include a threshold for such reductions. However, the Council's Ecological and Climate Change Emergency Action Plan sets out that new housing developments should achieve a minimum 50% reduction in emissions when compared to target rates in the current Building Regulations. Whilst this is not adopted planning policy, the Action Plan is a material consideration.
- 9.162 The application has provided enhanced information in relation to the energy and sustainability when compared to the previous scheme. One major difference between the two is that 100% of the dwellings will now have photovoltaic cells on the roof. This was altered following discussion at the last committee amongst Members in relation to the previous proposals.
- 9.163 The Climate Change Officer has advised that they have no objection but have asked for an Energy Strategy and Sustainability Strategy to be secured by condition.
- 9.164 On this basis the scheme is in accordance with DM19 of the Local Plan and the NPPF with respect to sustainability and climate change.

Contamination

9.165 The Environmental Health Officer has commented on the proposal and recommended the inclusion of Contaminated Land Conditions. There is no obvious contamination issue related to the site other than in connection with the agricultural use and proximity to a graveyard.

9.166 A Phase 1 desk study would be required in association with any grant of consent, this could be provided in the form of a pre-commencement condition. The assessment would a historic background and potential contaminated land at the site. Should contamination potential be identified a phase 2 intrusive investigation and remediation would then be triggered by condition.

9.167 Pre-commencement conditions would be considered sufficient to ensure that development would provide safe habitable residential accommodation.

Air Quality

9.168 Policy SP 5 of the Local Plan criteria 12 states that development will be consistent with local air quality action plans for Newington High Street and bring forward proposal for mitigation of adverse impacts. Swale Borough Council Air Quality Action Plan (2018 – 2022) sets out local AQAM Measures.

9.169 Policy DM 6 managing transport demand and impact criteria (d) states that:

“integrate air quality management and environmental quality into the location and design of, and access to, development and, in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree especially taking into account the cumulative impact of development schemes within or likely to impact on Air Quality Management Areas”.

9.170 Paragraph 186 of the National Planning Policy Framework states that:

“Planning Policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan”.

9.171 The locally focused measures within the Air Quality Action Plan identify those measures to be introduced into individual AQMAs are those which target:

- Initiatives that inform and protect local residents,
- Smooth traffic flows causing less congestion of all vehicles through the AQMAs,
- Access to cleaner alternative transport for residents and business.

9.172 The plan identifies local focussed measures will be implemented through ‘local’ measures set out in table 5.2. The table indicates for Newington these would consist of Local school and business travel plans and promoting travel alternatives.

- 9.173 The Newington Air Quality Management Area (AQMA) is located to the south of the site more than 400m from the site. The AQMA is located along the A2 High Street Newington. Further along the A2 Medway Council has also identified an AQMA on Rainham High Street.
- 9.174 An Air Quality Assessment was provided by the applicant. The assessment considers the development on an individual and a cumulative basis. The assessment also considers the impact of both the construction process and vehicle emissions.
- 9.175 The Air Quality assessment concluded that the impact as a result of construction process could be mitigated with regard to dust production. The proposal would need to implement mitigation, which would be secured via condition to ensure acceptable levels of dust during construction. Further, continuous visual assessment of the site during construction and a complaints log should be maintained during the development.
- 9.176 Regarding the vehicle emission impact the proposal in isolation has been assessed with proposed predicted levels in 2024. The impact when assessing the development in isolation would have a negligible impact to air quality with some receptors seeing a moderate impact. The impacts of the development on its own result in a less than a 1% change at existing receptors.
- 9.177 The proposed development's impact in isolation would not therefore be considered to have significant harm to human health.
- 9.178 In assessing the development cumulatively, the worst-case predicted scenario 2024 model indicated moderate or substantial impacts. The assessment is based on the proposed and committed developments in Newington only. The impact associated with committed development in Newington only is reduced due to changes in vehicle emission in 2024. Under this scenario the impacts from committed development in Newington are medium with the change to receptors as less than 5%.
- 9.179 As a result of the cumulative impacts of all committed development and the proposed development an Emissions Mitigation Assessment was undertaken. A damage cost was undertaken including NO_x, PM₁₀, and PM_{2.5}. The damage cost (without mitigation) associated with the additional vehicle movements associated with the development over a 5-year period was considered to amount to £13, 000.00.
- 9.180 The applicant outlined how the damage cost mitigation of the £13, 000.00 which would be spent for on-site mitigation. The distribution of cost would be spent on a Travel Plan, welcome packs, car club etc. The damage cost calculation would be secured via section 106 and would in part be spent on an amount provided to each dwelling to be spent on subsidies public transport (bus/and or train travel tickets).
- 9.181 A further £5,000.00 above the required damage cost calculation would be provided for contribution towards the delivery of e-bikes or other approved schemes to combat air quality issues (this would rely on contribution from other development to reach a viable contribution pot. This will be secured via the section 106 agreement.

- 9.182 The technical transport note also provides mitigation measures through the Travel Plan which will encourage mode shifts. The provision of 12 month subsidised public transport for new residents would aim to increase use of public transport. Further, the Transport Plan would encourage the use of apps for journey planning.
- 9.183 The technical note identified that the Department for transport ‘Sustainable Travel Towns’, indicated that some projects involving a varied range of initiatives to reduce car reliance found an average reduction of car use of 7-10% per resident. The conclusion of the Transport note indicates that provided measures could see a reduction of trips by vehicles.
- 9.184 It should be noted that all dwellings would have the provision of an electrical vehicle charging point, but these are not considered as part of the mitigation package and low emission boilers would also be conditioned.
- 9.185 The proposal individually is not considered to have an individually a significantly negative impact. The concerns primarily derive from a cumulative impact with other committed development.
- 9.186 Paragraph 186 of the National Planning Policy Framework does make it clear that opportunities to improve or mitigate impacts should be considered at the plan making stage. The NPPF encourages the need for opportunities to be considered at plan making stage to ensure a strategic approach. Paragraph 186 state individual application is consistent with the local air quality management plan.
- 9.187 The proposal would be considered to provide an improvement to traffic flows due to the provision of a dedicated drop off zone preventing idling. The proposal would also see the provision of an extended pedestrian path to local transport networks in Newington, and mitigation would provide residents with discounted tickets. The proposal would be considered to meet with the Local Air Quality Management Plan.
- 9.188 The proposal is considered acceptable in this regard subject to securing of mitigation package, and therefore in accordance with Policies SP 5 and DM6 of the Local Plan and NPPF.

Archaeology

- 9.189 The application site is not located within an area of Archaeological Potential, as this extends to the north-east in a north-west/north-east trajectory. However, the local area has been subject to archaeological finds. The Archaeological assessment submitted with the application does not identify either designated or non-designated archaeological remains on site.
- 9.190 The assessment was based on a walkover study. No response has at this stage been provided by Kent County Council Archaeology, though I hope to be able to update Members at the meeting. The site does lie near an area of archaeological potential. Given the potential a condition would be applied to secure investigation prior to commencement to rule out conclusively the potential for remains on site.

Developer Contributions

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

9.192 The following contributions have been identified as reasonable and necessary to mitigate the impacts of the development on the surrounding area / infrastructure –

Requirement	Value	Towards
SAMMS payment	£250.39 per dwelling	North Kent Strategic Access Management and Monitoring Strategy
Primary Education	£170,000.00	Towards a new Primary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in the Sittingbourne North planning Group
Secondary Education	£129,400.00	Towards a new Secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning groups
Secondary Land	£65,893.33	Towards the land costs of the new Secondary School in Northwest Sittingbourne (Local Plan Policy MU1) and/or new Secondary Schools in Sittingbourne nonselective and Sittingbourne & Sheppey selective planning groups.
Community Learning	£410.50	Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre and outreach provision to increase capacity in the service.
Youth Service	£1,637.50	Contributions requested towards additional equipment and resources for the Youth service to provide outreach services in the vicinity of the development.
Library Bookstock	£1,386.25	Contributions requested towards additional services, resources, and stock at Sittingbourne Library or any other serving the development.
Social Care	£3,672.00	Towards Specialist care

		accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough.
Waste	£4,591.75	Towards additional capacity at the HWRC & WTS in Sittingbourne
NHS	£26,028	Towards refurbishment, reconfiguration and/or extension of Primary Care Estates Team Grovehurst Surgery and/or Maidstone Road Rainham Surgery and/or Green Porch Medical Partnership and/or Woodlands Family Practice and/or towards new general practice premises development in the area
Highways	<p>£34,056-96 towards Key Street roundabout highway improvement. Grampian condition to restrict occupations until the Key Street highway improvement contract has been awarded (this may fall as a condition or S.106 Obligation – following drafting of the legal agreement).</p> <p>Completion of the off-site highway works to provide a footway and the carriageway widening along School Lane as shown on drawing 15058-H-01 revision P7, including the proposed extension of the speed restriction, prior to the use of the site commencing (this may fall as a condition or S.106 Obligation – following drafting of the legal agreement).</p> <p>An application made to progress a Traffic Regulation Order associated with the waiting restrictions shown on the approved drawings, and the scheme implemented in accordance with the outcome of the Order prior to the occupation of any dwellings hereby approved (this may fall as a condition or S.106 Obligation – following drafting of the legal agreement).</p>	
Refuse Bins	<p>1 x 180ltr green refuse bin @ £46.60 per bin 1 x 240ltr blue recycling bin @ £46.60 per bin 1 x 23ltr black food bin @ £10.80 per bin 1 x 5ltr kitchen caddy @ £5.40 per bin Total cost = £109.40 per dwelling = £2,735</p>	

Table 1 – S.106 Heads of Terms

10. These Heads of Terms have been provided to the applicant and agreed upon.

11. CONCLUSION

11.1 Whilst the site is located outside of the defined boundary of Newington 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.

- 11.2 It would boost housing supply providing 25 units towards the Council's 5 Year Housing Land Supply. These factors carry significant weight in favour of the scheme.
- 11.3 It is considered that the proposals would not cause substantial harm to landscape character.
- 11.4 The S106 Agreement for SAMMS contributions and infrastructure costs will mitigate against the impact of the proposals on key services.
- 11.5 In terms of sustainable development, there would be some clear positive social impacts through the provision of housing and affordable housing, and some positive economic impacts through construction and local spending by future occupants.
- 11.6 Overall, the scheme is fully policy compliant. As the Borough still has not achieved a 5-year housing land supply when considered against the standard method the 'tilted balance' (NPPF Para 11d footnote 8) applies and the conformity with the development plan weighs further in favour of approval.
- 11.7 The findings of *Gladman Developments Ltd v SSHCLG & Corby BC & Uttlesford DC [2021] EWCA Civ 104* were that the test of the NPPF can be encompassed under into the decision-making under s70(2) of the TCPA 1990 and s38(6) of the PCPA 2004 in one all-encompassing stage, as here the scheme is assessed as policy compliant and in accordance with the development plan the scheme is recommended for approval.
- 11.8 If members do not take the view that the scheme is policy compliant due to either the quantum of development and/or part of the scheme being outside the built-up area boundary, then this has two consequences. Firstly, as the 'tilted balance' applies in any event Policy ST2 contains a clause that schemes in compliance with National Policy outside the built-up area boundaries are acceptable. Which means that the excess number outside the built-up area boundary is acceptable. Even so means that policies relating to the supply of housing cannot be considered up to date. This includes the Newington settlement boundary so this would trigger a presumption in favour of development under NPPF para 11d as the tilted balance has the effect of disapplying the built-up area boundary.
- 11.9 Whatever interpretation is applied the conclusion is the same; either a presumption in favour of the scheme because it is policy compliant or a presumption on favour of the scheme because it is not but with tilted balance then applying as part of the presumption in favour of development.
- 11.10 The size of the scheme is useful in terms of the 5 Year Housing Land Supply, as the 25 units would likely take no more than 18 months to 2 years to complete – resulting in an almost immediate positive impact on supply. Getting the Borough back above 5 years would be a major achievement; placing it back in control over schemes not complying with the local plan. The ability of this and other schemes on this agenda towards regaining a 5-year housing land supply counts strongly in favour of the scheme in the planning balance. This is additional to the assumptions in bearing Fruits and the current 5YHLS which assumed the plan review and decision on the SNRR would come before delivery of this site.

11.11 The scheme is assessed and being in conformity with national policy and the local plan. It is recommended that planning permission be granted for the proposal subject to conditions and the completion of a Section 106 agreement.

12. RECOMMENDATION

12.1 GRANT subject to the conditions as set out below and the signing of a suitably worded s106 agreement to secure the developer contributions as set out below.

12.2 Delegated authority is also sought to amend condition wording and s106 clauses as may reasonably be required.

12.3 S.106 Heads of Terms

Requirement	Value	Towards
SAMMS payment	£250.39 per dwelling	North Kent Strategic Access Management and Monitoring Strategy
Primary Education	£170,000.00	Towards a new Primary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in the Sittingbourne North planning Group
Secondary Education	£129,400.00	Towards a new Secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning groups
Secondary Land	£65,893.33	Towards the land costs of the new Secondary School in Northwest Sittingbourne (Local Plan Policy MU1) and/or new Secondary Schools in Sittingbourne nonselective and Sittingbourne & Sheppey selective planning groups.
Community Learning	£410.50	Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre and outreach provision to increase capacity in the service.
Youth Service	£1,637.50	Contributions requested towards additional equipment and resources for the Youth service to provide outreach services in the

		vicinity of the development.
Library Bookstock	£1,386.25	Contributions requested towards additional services, resources, and stock at Sittingbourne Library or any other serving the development.
Social Care	£3,672.00	Towards Specialist care accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough.
Waste	£4,591.75	Towards additional capacity at the HWRC & WTS in Sittingbourne
NHS	£26,028	Towards refurbishment, reconfiguration and/or extension of Primary Care Estates Team Grovehurst Surgery and/or Maidstone Road Rainham Surgery and/or Green Porch Medical Partnership and/or Woodlands Family Practice and/or towards new general practice premises development in the area
Highways	<p>£34,056-96 towards Key Street roundabout highway improvement. Grampian condition to restrict occupations until the Key Street highway improvement contract has been awarded (this may fall as a condition or S.106 Obligation – following drafting of the legal agreement).</p> <p>Completion of the off-site highway works to provide a footway and the carriageway widening along School Lane as shown on drawing 15058-H-01 revision P7, including the proposed extension of the speed restriction, prior to the use of the site commencing (this may fall as a condition or S.106 Obligation – following drafting of the legal agreement).</p> <p>An application made to progress a Traffic Regulation Order associated with the waiting restrictions shown on the approved drawings, and the scheme implemented in accordance with the outcome of the Order prior to the occupation of any dwellings hereby approved (this may fall as a condition or S.106 Obligation – following drafting of the legal agreement).</p>	
Refuse Bins	<p>1 x 180ltr green refuse bin @ £46.60 per bin 1 x 240ltr blue recycling bin @ £46.60 per bin 1 x 23ltr black food bin @ £10.80 per bin 1 x 5ltr kitchen caddy @ £5.40 per bin Total cost = £109.40 per dwelling = £2,735</p>	

Table 2 – S.106 Heads of Terms

12.4 Conditions

- 1) The developments to which this permission relates must be begun no 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 developments hereby approved shall be carried out and maintained in accordance with the following approved plans:

- Site Location Plan – 030/001,
- Entrance Landscape Sketch 1594/001 Rev F,
- Proposed Access – 15058-H-01 P8,
- Vehicle Swept Path Analysis 11.4m Refuse – 15058-T-01 P4,
- Vehicle Swept Path Analysis Pantehnicon – 15058-T-02 P3,
- Vehicle Swept Path Analysis Fire Tender – 15058-T-03 P3,
- Play Strategy – 1594/003 Rev A,
- Landscape Masterplan – 1635/002,
- Proposed Site Plan – 030/010,
- Floor Plans – plot 1 – 030/100,
- Floor Plans – plot 2 – 030/102,
- Floor Plans – plot 11&12 – 030/113,
- Floor Plans – plot 13&20 – 030/114,
- Floor Plans – plot 14 – 030/116,
- Floor Plans – plots 17&18 – 030/118,
- Floor Plans – plot 19 – 030/120,
- Floor Plans – plot 21 – 030/122,
- Floor Plans – plot 22 – 030/124,
- Floor Plans – plot 23 – 25 – 030/126,
- Floor Plans – plot 3&4 – 030/104,
- Floor Plans – plot 5 – 030/106,
- Floor Plans – plot 6&7, 15&16 – 030/109,
- Floor Plans – plots 8 – 10 – 030/111,
- Elevations – plot 1 – 030/101,
- Elevations – plot 11&12 – 030/112,
- Elevations – plot 13&20 – 030/115,
- Elevations – plot 14 – 030/117,
- Elevations – plots 17&18 – 030/119,
- Elevations – plot 19 – 030/121,
- Elevations – plot 2 – 030/103,
- Elevations – plot 21 – 030/123,
- Elevations – plot 22 – 030/125,
- Elevations – plot 23 – 25 – 030/127,
- Elevations – plot 3&4 – 030/105,
- Elevations – plot 5 – 030/107,
- Elevations – plot 6&7, 15&16 – 030/108,
- Elevations – plots 8 – 10 – 030/110,
- Boundary Treatment Strategy Plan – 030/011,
- Tenure Strategy Plan – 030/012,
- EV Charging & Parking Strategy Plan – 030/013,
- Refuse Strategy Plan – 030/014,
- Fire Strategy Plan – 030/015.

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

- 3) Prior to reaching damp proof course of the development hereby approved a detailed sustainable surface water drainage scheme for the site has been submitted to (and

approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment and the Drainage Strategy prepared by Fairhurst dated July 2021 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

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

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

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

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

- 4) 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 neighboring 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.

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

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

- 6) Prior to the first use of the car park details of the proposed lighting associated with the proposed car park as illustrated on plan Proposed Site Plan Dwg. No. 030/010 shall be submitted to and approved in writing by the local planning authority. The details shall ensure low level lighting. The development shall be carried out in accord with the approved plans, prior to bringing the development into first use and maintained as such thereafter.

Reason: In the interest of the dark skies of the countryside and neighboring amenity.

- 7) From the commencement of works (including site clearance), all mitigation measures for protected species will be carried out in accordance with the details contained in sections 8.5 through to 8.16 of the 'Interim Ecological Assessment' (Bakerwell February 2022).

Reason: In the interests of protected species.

- 8) Prior to occupation, a lighting design plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter. No external lighting other than agreed subject to this condition shall be installed on site without the prior consent of the local planning authority.

Reason: In the interests of protected species.

- 9) Prior to completion of the development hereby approved, A Landscape and Ecological Management Plan (LEMP) will be submitted to, and be approved in writing by, the local planning authority. The LEMP will be based on the 'Landscape Masterplan' Dwg. No. 1635/002 (Murdoch Wickham November 2022) and will include the following.
 - a) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management prescriptions for achieving the aims and objectives;
 - e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - f) Details of the body or organisation responsible for implementation of the plan;
 - g) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Reason: In the interest of ecological enhancement of the site.

- 10) No development approved by this permission shall be commenced on site prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority. The Contaminated Land Assessment shall comprise:
 - a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy maybe be required, based on the results of the desk study, in which both shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.

Reason: In the interest of amenity.

- 11) Prior to the commencement of the development hereby approved, details of a Dust Management Plan (DMP) shall be submitted to and approved in writing by the Local

Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interest of amenity.

- 12) Prior to first occupation of each dwelling hereby approved the Electric Vehicle Charging point shown on the approved plan EV Charging and Parking Strategy Pan Dwg. No. 030/013 for that dwelling shall be provided and thereafter retained. All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved ChargePoint model list.

Reason: In the interest of air quality.

- 13) Prior to reaching damp proof course details of the proposed materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accord with the approved details.

Reason: In the interests of visual amenity.

- 14) Prior to reaching damp proof course of the development hereby approved a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be based on the landscape strategy drawing 'Landscape Master Plan Dwg. No. 1635/002 and should provide images together with relevant sizes/ dimensions of the relevant shrubs, trees, surfacing materials (hard surfaces) and boundary treatments to be used. The development shall indicate a landscape buffer along the western boundary of the site which shall include a strong mix of native species trees. The development shall be carried out in accord with the approved details and in accordance with a program that shall first have been agreed in writing by the Local Planning Authority.

Reason: In the interest of enhancing the visual amenity of the area.

- 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 similar size, or such size and species as may be agreed in writing with the Local Planning Authority, and within the next planting season, or whatever planting season is agreed.

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

- 16) Prior to the commencement of the development hereby approved details of the proposed tree protection measure across the site shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented prior to the commencement of any development and maintained throughout the course of the development.

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

- 17) Prior to first occupation of the development hereby approved details of the proposed play equipment and seating shall be submitted to and approved in writing by the Local Planning Authority. The details shall be based on plan 'Play Strategy 1635/003'. The

approved details shall be implemented prior to completion of the development and maintained as such thereafter.

Reason: In the interest of open space and recreation.

- 18) Prior to the first use of the car park hereby approved, details of a parking management scheme for the proposed school car park shall be submitted to and approved in writing by the local planning authority. The car park shall be managed in accordance with the approved details thereafter.

Reason: In the interest of highway safety.

- 19) Prior to the commencement of the development the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable shall be submitted to and approved in writing by the local planning authority. Should the watching brief indicate remains of interest no development shall take place until details have been provided securing safeguarding measures to ensure the preservation of archaeological remains and recording. The development shall be carried out in accordance with the approved details.

Reason: In the interest of the archaeological interest.

- 20) Prior to reaching damp proof course of the development hereby approved, further details of all means of enclosure shall be submitted to and approved in writing by the Local Planning authority. These details shall be in accord with the Landscape Master Plan 1635/002 and the Boundary Treatment Strategy Plan 030/011 and include the proposed materials, overall height, and siting. For enclosures around dwellings the approved details shall be implemented prior to first occupation of that dwelling and maintained as such thereafter. For enclosures elsewhere on the site they shall be implemented prior to the completion of the development and maintained as such thereafter.

Reasons: In the interest of visual amenity and conserving the character of the rural lane.

- 21) Prior to the occupation of any of the units hereby permitted the visibility splays as shown on the approved plans shall be provided with no obstructions over 1.2m above carriageway level within the splay, street nameplates and highway structures if any and maintain as such thereafter.

Reason: In the interest of highway safety.

- 22) The approved parking as illustrated on plan EV Charging and Parking Strategy Plan Dwg. No. 030/013 shall be provided for each individual dwelling prior to the first occupation of that dwelling and retained thereafter. The approved parking and drop off/pick up area shall be provided before the completion of the development and retained thereafter.

Reason: In the interest of highway safety.

- 23) Prior to reaching damp proof course of the development details of all proposed secured, covered cycle parking facilities shall be submitted to and approved in writing by the local planning authority. The approved cycle parking provision shall be supplied in accord with the approved details prior to first occupation of the individual dwellings to which

they relate, and elsewhere on the site prior to completion of the development hereby approved.

Reason: In the interest of sustainable transport.

- 24) Prior to the occupation of any of the units hereby permitted the approved access as show on the approved plans including Proposed Site Plan Dwg. No. 030/010 shall have been completed and brought into use and maintained as such thereafter.

Reason: In the interest of the local highway network.

- 25) Prior to the occupation of any units as approved by the development hereby approved the completion of the off-site highway works to provide a footway and the carriageway widening along School Lane as shown on drawing 15058-H-01 Rev P8, including the proposed extension of the speed restrictions shall have been completed and brought into use.

Reason: In the interest of highway safety.

- 26) Prior to the commencement of the development hereby approved details of the proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and constructed shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accord with the approved details and maintained as such thereafter.

Reason: In the interest of highway safety.

- 27) Prior to the occupation of any of the units as approved by this development details the following works between a dwelling and the adopted highway shall have been completed:
- (a) Footways and/or footpaths, with the exception of the wearing course;
 - (b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interest of highway safety.

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

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

- 29) Prior to the commencement of the development hereby approved a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management shall include 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) dust management and compliant log,
 - (d) Timing of deliveries,
 - (e) Provision of wheel washing facilities,

(f) Temporary traffic management / signage,

The development shall be always carried out in accord with the approved Construction Management Plan.

Reason: In the interest of highway safety.

Informative

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

1. Appendix 1 – Newington Parish Council Comments:

Application: 21/504028/FULL Land At School Lane, Newington ME9 7JU

Proposal: Erection of 25no. residential dwellings and the provision of a 20 space staff car park and 20 space pupil pick-up/drop-off area for Newington C of E Primary School, together with associated access, landscaping, drainage and infrastructure works.

Newington Parish Council objects to this application.

Our submission outlines our objections, referencing these to relevant reports (from Swale planning officers, SBC policy documents, planning inspectorate decisions and other applicable documents). We show how these material considerations are substantiated in SBC policy and the National Planning Policy Framework.

1 False justification given for this proposal

The proposal for 25 homes is predicated on the supposed need for a new permanent drop-off zone and some additional parking at Newington CP School. This could be met by a permanent arrangement for use of the land currently enjoyed for this purpose.

The applicant's Design and Access Statement

The 'School drop-off and parking area of the proposal is the focal element of the scheme. Newington Church of England Primary School (Newington CEPS) currently have a short term lease arrangement, expiring in June 2022, to use the land off of School Lane as a temporary staff parking and drop off zone. The parking / drop off area is needed because the existing school grounds are constrained and do not provide sufficient car parking for staff nor allow a safe zone for parents to drop off their children.

There are 21 parking spaces on the spacious school site with a total 42 teaching and support staff in the school and adjacent Cherries pre-school. Prior to the temporary parking/drop off area being provided, during peak times the roads easily became congested, causing tension between parents, increased pollution due to idling cars and increased safety risks.

This temporary site was originally farmland, repurposed with a hard surface for construction vehicles and then as a car park for the portacabin sales office when the landowner sold the land opposite for the construction of 14 homes as Blaxland Grange. Through Members' grants the School was able to construct a secure pedestrian route from school to this land. It is our understanding that no planning application was made for change of use of the land from agriculture to contractor hardstanding/ school use and that the land is currently registered still listed as for agricultural use.

Although an improvement from the existing school site, the temporary parking/drop off area does not meet the full requirements of the school.

The current area is probably sufficient for 20 additional staff car parking spaces, and two or three spaces of off-road short-stay parking for visitors during the day as well as a drop-off zone for blue badge holders, taxis and parents. Like most schools Newington CEP has a policy of no vehicle movements on the school site at the beginning and end of the school day.

The facility will be delivered through a freehold transfer in perpetuity to Kent County Council which can be secured by way of planning obligation.

This could be met through the landowner simply gifting the current site to Kent County Council rather than short-term agreements.

The 'consultation' with parents of Newington School pupils had a fairly high response rate due to the fact that it was sent by the School (roll 200 in the summer term, 120 families consulted, 54% response rate) but the question was:

'Following the successful establishment of the drop off zone, we wanted you to know that the current arrangement is up for review. Under a new scenario, and with enough support, we would potentially be provided with a fully tarmacked and fit for purpose car park, drop off zone and paved path in to school. This would be provided in perpetuity by a community contribution from a Developer as part of a potential housing development adjacent. Please complete and submit the form below so your voice can be heard and will be considered in any future developments. Kind regards, Newington CEP School'

Of the 120 families 55 did not respond and 56 said they would use the drop-off area. Their support was for this facility – not for a development of 24 homes.

Currently visitors park on the road or use the parish church car park 300 metres away.

2 The location of the proposed development

It is hard to envisage a less-suitable site for a housing development.

The proposed site is at the junction of School Lane with Bricklands (known locally at Mill Hill or 'the road with no name'!)

Church Lane is an ancient highway and the only road to the north of the A2. As such it serves as access and egress for its residents and those using the roads leading from it. As well as being narrow, Church Lane offers the only parking for most of the 135 houses either side of the road and for some of the properties on the A2. Whilst just manageable at some times of the day, Church Lane often comes to a standstill at the start and end of the school day. As most of the Village population live South of the A2, parents choose to drive, often backing-up along the A2 until there is space to enter Church Lane.

There are two roads off Church Lane: St Mary's View and Denham Close. The former was the subject of an earlier unsuccessful planning application for extension in 2015 with the planning appeal dismissed in March 2017 (see below)

At its northern end Church Lane divides west to School Lane, north via Wardwell Lane, a narrow route to Lower Halstow; and East becoming Iwade Road / High Oak Hill towards the much-enlarged Iwade, many residents of which use it as 'rat-run' for the station and towards the Medway Towns.

School Lane stretches only 100 yards before dividing into Bricklands (a single track by-way) and Boxted Lane (again narrow, but with passing points); both lead to Breach Lane.

Boxted Lane floods for much of the year as water flows from adjacent fields. Attempts at alleviation through roadside grips have not been successful. Kent County Council

have confirmed that the cost of a modern drainage system would be prohibitive; residents and road users are left with the situation where, on request, floodwater is pumped into tankers when necessary. This has been confirmed as policy by the KCC Cabinet Member for Highways and Transport.

The School has been here since Victorian times; plans to relocate it to a new site, south of the A2, off Playstool Road were dropped 40 years ago due to KCC finances. Some expansion of parking and a drop-off facility are needed. A housing development would make the traffic situation considerably worse. The applicants Transport statement (5.5.6) estimates '117 vehicle trips across the 12 hour weekday period'; we submit that most of these would be at peak times to coincide with the start and end of the school day as well as others from the village and Iwade on their way to and from work.

An unreliable traffic count was undertaken in summer 2016 (end of the school summer term) and an up-to-date one is required for period covering normal term-time school days.

We have an ongoing concern for the safety of children who walk to school and are unconvinced by the applicants proposal in 'Access and Highways' para 3.3.4 of their Planning Statement.

We are relieved that Fernham Homes decided not to proceed with plans to build between Bricklands and Boxted Lane as this would abut the village cemetery – a place of calm, greatly valued by the families of deceased who regularly visit.

We note that the Newington Parish Council was, unusually, formally consulted on a planning application in Bobbing, our neighbouring parish (Application: 21/500173/FULL Land East Of Hawes Woods, High Oak Hill, Iwade Road, Newington ME9 7HY Proposal: Retrospective application for change of use of land from agricultural to animal rescue including new stock fencing and gates, mobile field shelters, small animal houses, shipping containers for storage, associated boundary treatment and stationing of a mobile caravan for use as a residential unit for staff.) the officer email: 'The neighbouring Newington and Lower Halstow Parish Councils have been consulted, at the request of the Development Manager, Planning Services, due to potential effect on roads leading to the site'. This clearly acknowledges a concern about traffic on the rural road network in this vicinity and the cumulative effect of any developments.

The development at Blaxland Grange was the subject of a condition that all construction traffic should reach the site via Iwade Road rather than Church Lane; a further acknowledgment of congestion problems on the narrow Church Lane, as well as the height restriction under the railway bridge.

There are also concerns about sewerage in this part of the village. A complete upgrade of the main sewer running south to Lower Halstow is long overdue and has been consistently postponed due to cost. Currently sewage is stored in underground tanks for pumping outside peak hours. There has been flooding on a number of occasions.

The applicant refers to this (6.2.11) as a 'currently underdeveloped part of the village'. There is a good reason for the lack of development: the road network is poor and it is outside the defined built up area.

3 Swale Borough Council and NPPF Policies relevant to this proposal

- It is not part of the existing Swale Borough Council Plan

- It is not included in the latest consultation exercise on the local plan
- It was not part of the ‘call for sites’ for the Strategic Housing Land Availability Assessment in October 2020
- The Swale Local Plan Panel on 29 October 2020 followed the officer recommendation ‘that no sites in Newington should be progressed for inclusion as allocations in the Local Plan Review’.

Therefore this application is contrary to Swale’s policies and procedures. It is a premature application.

In the Local Plan, Policy ST 3 identified Newington as a Tier 4 Rural Local Service Centre with noted limitations to expansion, so the village was allocated a growth rate of 1.3%. Even in the 2017 edition of the Local Plan, the restrictions on growth were reiterated with the single exception of “Land North of the High Street”.

The following facts emphasise the extent that Newington has already played in fulfilling the targets of the Local Plan:

1. Total already built in Newington 2014 to now is 180 properties
 - a. For the target six years to date that is 297.5%
 - b. Or for the full 17 year quota that is already 105.3%

Since the Census in 2011 (population 2551 in 1089 household spaces; data from 2021 not yet available), this village has grown by 18%. (for detail used in the calculation please see appendix

1)

In reality: the village school has vacancies only in specific year groups; there is one convenience store, a public house and a joint pharmacy/post office; the GP surgery is not accepting new patients (extensively covered by recent media reports highlighting difficulties for Newington residents to obtain the services of the doctor locally by telephone or face-to-face); there is a limited weekday bus service, nothing on Sundays; one train per hour in each direction stops at Newington station. This was one reason for the Local Plan Panel October 2020 decision not to progress allocations in the local plan review.

The Parish Council is sure that Members will understand the cumulative effect of this increase and that of the proposal for a further 25 homes.

This application is outside the built-up (see policies E6 RC3). The exception – where a proposal is ‘able to demonstrate that it would contribute to protecting and where appropriate enhancing the intrinsic value, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities’. does not apply.

This proposal does not enhance the countryside or the vitality of the rural community.

The proposal does not meet the definition of sustainable development in rural areas “To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

It does not provide housing for agricultural workers on neighbouring land and so is contrary to the principle.

The land is not a ‘brownfield’ site; it is agricultural land Policy DM31: Agricultural Land – confirms development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up areas.

Development on BMV will not be permitted unless:

1. The site is allocated
2. There is no alternative site on land of a lower grade than 3a
3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely significant losses of high-quality agricultural land

Fernham Homes gave a presentation to Newington Parish Council in June 2021 and were clear that they saw the potential for further development adjacent to this site; this would lead to even more significant loss of agricultural land as well as a seriously detrimental effect on the rural character of the area.

4 The proposed development is outside the defined urban boundary of our village.

There is one planning inspectorate decision (2016) close to this site. We also give detail of three more recent inspectorate decisions 2018-2021 where dismissal of the appeals was due to the proposal being outside the defined built-up area. We quote also from the 2020 decision in a neighbouring village, dismissed on the same grounds.

a) Land to East of St Mary's View, Church Lane,

The closest application for a significant development was Land to East of St Mary's View, Church Lane, 300 yards from this application. 15/509664/OUT 'Outline application for the erection of up to 26 residential dwellings with all matters reserved with the exception of access' planning application from November 2015, refused at Swale Borough Council Planning Committee in May 2016, decision notice July 2016, with the subsequent planning appeal dismissed in July 2016

The close proximity to this application makes the reasons for the inspector decision relevant:

Appeal Ref: APP/V2255/W/16/3157268 Decision date 6 March 2016 Application 15/509664/OUT

29. The site comes within the Iwade Arable Farmlands as identified by the Swale Landscape Character and Biodiversity Appraisal SPD. This area is characterised by very gently undulating rural landscapes that may traditionally have supported fruit growing. The SPD refers to the large arable/horticultural fields with regular field patterns and rectangular shapes predominating, and a sparse hedgerow pattern.

34. ...in my view the proposal would significantly harm the rural character and setting of Newington. This harm would not be mitigated by the landscape proposals. The proposal would therefore conflict with paragraph 17 of the National Planning Policy Framework, which amongst other matters states that regard should be had to the different roles and character of different areas, and that the intrinsic character and beauty of the countryside should be recognised.

36. I therefore conclude that the proposal would significantly harm the character and appearance of the surrounding area and would fail to comply with Local Plan policies E6 and E9. Loss of Agricultural Land

37. The appellant acknowledges that the proposal would result in the loss of an area of BMV land. Policy DM31 of the emerging local plan sets out that development on BMV land will only be permitted when there is an overriding need that cannot be met on land within the built up area boundaries, unless the site is

43. At the heart of the Framework is a presumption in favour of sustainable development. There are three dimensions to sustainable development, social, economic and environmental. These roles should not be undertaken in isolation, because they are mutually dependent. In social terms the proposal would provide market and affordable housing, within walking distance of a primary school, shops, services and public transport.

44. Economically the proposal would provide employment during the construction period and would make a modest contribution towards household expenditure in the area. The developer contributions would provide mitigation against the adverse impacts of the proposal on local infrastructure and therefore are not an economic benefit of the proposal. In environmental terms, the proposal would result in the loss of BMV land, and would result in harm to the landscape and character of the area. Whilst the proposal includes mitigation measures these would not outweigh the environmental harm arising from the proposal

46. In the absence of a five year supply of housing, the Framework recognises the intrinsic beauty and character of the countryside as a core planning principle, and it should be given significant weight.

47. Whilst there is an existing shortfall in the five year housing land supply, it is likely that this will be resolved in the context of the emerging Local Plan and therefore the existing shortfall is likely to be of limited duration. In this context there is insufficient evidence to persuade me that the loss of the BMV land which comprises the appeal site is necessary to meet the housing needs of the Borough.

48. I have concluded above that the proposal would cause significant harm to the rural character and appearance of the site and the surrounding area and would also result in the loss of BMV land.

50. Taking everything into account, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.

The Eden Meadow development at Boyces Hill Newington(16/505861/OUT, for 9 dwellings) was rejected at the 2 February 2017 Swale Borough Council Planning Committee meeting on the advice of officers.

Extract from Officer report

- i. It is outside the defined urban boundaries of Newington
- ii. Newington is considered a less sustainable settlement (services, transport and access to employment)
- iii. There would be significant adverse impact on the landscape character, quality and value of the rural setting.
- iv. There would be significant, permanent and unnecessary loss of a large area of best and most versatile agricultural land.
- v. 'As such it is considered that the proposed development does not accord with the National Planning Policy Framework' (see report to 2 February meeting (10.1) for detail Newington Parish Council believes this was an accurate and balanced report.

The reasons for refusal, above, apply to the current proposal.

The subsequent Appeal (non-determination) was allowed. Decision date 31 March 2017 Appeal Ref: APP/V2255/W/16/3162806

7. The appeal site lies adjacent but outside the built-up area for Newington as defined in the “Swale Borough Local Plan 2008” (the LP). Saved Policy H2 states that residential development in the countryside will only be permitted where it meets one of the exceptions listed in Policies E6 and RC3. The provision of 9 open market dwellings does not fall within any of the exempted categories and consequently there would be conflict with the LP in this regard.

8. However, the LP is now time-expired and whilst this does not mean that it cannot carry weight, its policies need to be considered in relation to their consistency with the Framework.

The Local Plan, subsequently examined in summer 2017 and found to be sound is now valid and current; its policies apply fully.

The three most recent appeals to the planning inspectorate have been rejected on the grounds of being outside the urban boundary. (see: 148 High Street: PINS ref APP/V2255/W/17/3185369; 6 Ellen’s Place: PINS ref APP/V2255/W/20/3250073; 132 High Street: PINS ref APP/V2255/W/20/3247555.

In each case the Inspector decisions were that any, then, deficit in Swale’s current supply was not a reason to approve the applications.

b) 148 High Street, Newington (2 appeals)

An Appeal for 3 homes on a site south side of the A2 at 148 High Street, Newington, was dismissed by the Planning Inspectorate.

Decision date 17 January 2018 Appeal Ref: APP/V2255/W/17/3185369 Application17/500946/FULL

4 ...the area in which permission is sought to construct three new dwellings lies beyond the settlement boundary. For planning purposes the site is therefore within the countryside.

6. Although the commercial activities to the east have encroached to a small degree into the area to the rear of the High Street, the remainder has retained its open, rural character. Any other existing buildings appear to be part of the agricultural activities that previously took place in the area and are typical of those that can be seen in the countryside. There is therefore a significant change of character between the development which fronts the High Street and the area to the south.

7. The largest of the proposed dwellings would be a clear incursion into the open, rural landscape and countryside to the south of the High Street.... the introduction of the proposal as a whole with its access road, garages, parking areas, gardens and associated residential paraphernalia, would significantly erode the open, rural character of the area.

8 ...Consequently, the development as a whole would represent an unacceptable incursion into the countryside which would be harmful to the area’s open, rural character and appearance. This would be the case regardless of the precise details of the layout or design of the individual buildings.

9. I therefore conclude that the proposal would harm the character and appearance of the countryside, contrary to Policies ST3, CP3, CP4 and DM14 of the Local Plan, all of which seek to conserve and enhance the countryside.

10. Notwithstanding the fact that Newington is an accessible village with a significant range of services, the Local Plan has defined its built-up area boundary. The supporting text of Policy ST3 recognises that development opportunities within the village are limited for a variety of reasons, including poor air quality and the surrounding high quality agricultural land. Any residential development beyond the boundary established by the Local Plan would therefore conflict with the aim of providing homes in accordance with the Borough's identified and agreed settlement hierarchy.

15. I am aware that an Inspector granted planning permission for development of nine dwellings at Ellen's Place in March 2017. However, that scheme was assessed against different policies and when the Council was unable to demonstrate a five year housing land supply. The Inspector found that even though that scheme did not conform to the development plan, the adverse impacts did not significantly and demonstrably outweigh the benefits. The particular circumstances of that site and the policies which applied at the time therefore justified allowing the appeal.

A further appeal was also dismissed

Land rear of 148 High Street, Newington, ME9 7JH. Decision date 14 August 2020
Appeal Ref: APP/V2255/W/20/3245359 19/505596/FULL "conversion of former agricultural barn to a dwelling house including elderly dependent relative replacement structure, associated car parking and access driveway"

6. Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states "At locations in the countryside, outside the built-up areas boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities".

7. Given that the site's location would be outside the built-up area boundary of Newington, the appeal site would not be an appropriate location for residential development.

9. ...The appeal site is situated within the open land to the south of the High Street and exhibits all the attributes of the countryside.

10. ...The development would have a significantly urbanising effect upon the site and would substantially change its character. It would result in a diminution of the rural character and appearance of the area and negatively impact upon the tranquillity and beauty of the countryside.

12. Furthermore, the proposed development would have a harmful effect upon the character and appearance of the countryside. The proposal would, therefore, conflict with Policies ST1, ST3, DM9 and DM14 of the Local Plan. These policies seek, amongst other matters, development to support the aims of sustainable development, adhere to the Council's settlement strategy and to conserve and enhance the countryside.

17. At the heart of the National Planning Policy Framework (the Framework) is the presumption in favour of sustainable development.. Notwithstanding this, the appeal site lies outside the settlement boundary and is within the countryside, a location that would conflict with the aim of providing homes in accordance with the Borough's identified and agreed settlement hierarchy. Furthermore, I have found that the proposal would harm the rural character and appearance of the countryside.

19. I, therefore, conclude that the adverse impacts would significantly and demonstrably outweigh the moderate benefits of the scheme when considered against development plan policies and the Framework read as a whole. Consequently, the presumption in favour of sustainable development does not apply in this case.

c) 6 Ellen's Place, Boyces Hill, Newington

6 Ellen's Place, Boyces Hill, Newington, ME9 7JG 19/503203/FULL proposed erection of a chalet bungalow with detached garage; creation of new vehicular access and erection of a detached garage to serve no. 6.

Decision date 3 January 2021 Appeal Ref: APP/V2255/W/20/3250073

5. The new development referred to above, now named Eden Meadow, is a somewhat stark intrusion into the landscape, that was allowed on appeal. I have been supplied with a copy of the appeal decision notice; it is clear that the appeal was determined under earlier circumstances, in particular when the council was unable to demonstrate a 5-year supply of housing land to a significant extent, so that the Inspector decided that the development would contribute significantly in economic and social dimensions that outweighed the conflict with the development plan. I would add, though, that the Inspector stated that "it would introduce a substantial and largely self-contained enclave of development which, in landscape terms, would have little resonance with the more conventional and established arrangements along High Street".

7. Policy ST3 of the Swale Borough Local Plan 2017 (the Local Plan) sets out the settlement hierarchy within the Borough. It is the fifth element of this policy that is pertinent in this case: "5. At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities". Policy DM9 sets out exceptions under which new dwellings will be permitted within the countryside, none of which are applicable here.

8. These policies clearly place stringent restraints on new residential development within the countryside. In spite of the recent development of Eden Meadow, which currently is very raw and may soften as any landscaping scheme evolves, the appeal site is clearly within the countryside. These policies were adopted in 2017, before that latest version of the Nation Planning Policies Framework (the Framework) was published by the government, but the 2019 version continues to support local plan policies that protect the countryside. Framework chapter 15 sets out policies for conserving and enhancing the natural environment. Within this, paragraph 170, part b) is apposite in relation to this case: "170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and

other benefits of the best and most versatile agricultural land, and of trees and woodland;” NB: This is retained in the July 2021 version of the NPPF at Para 174 (b).

9. In respect of providing for housing, Framework chapter 5 deals with delivering a sufficient supply of homes. Within this chapter, under the heading Rural housing, are paragraphs 77 and 78. These state, as relevant here, “In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs, ...”; and, “To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services”. As far as the appeal proposal is concerned, whilst it may be in a reasonably sustainable location to access shops, public transport and community facilities, there is no local need, particular to the area, that has been identified.

Furthermore, it cannot be said to provide an opportunity for the village to grow and thrive, and it would not support local services to any material extent. The appeal site is not isolated, and therefore Framework paragraph 78 dealing with isolated homes is not relevant.

11. I should also mention that the council currently cannot demonstrate a 5-year housing land supply and the engagement of footnote 7 to Framework paragraph 11 should therefore be considered. However, the council has now been able to identify 4.6 years supply (as compared with the supply of 3.17 years quoted in the Inspector’s decision that led to the Eden Meadow development), a shortfall of just 0.4 years.

Conclusions

20. I conclude that the proposed development would be contrary to Policy ST3 of the Swale Borough Local Plan 2017 in that, being outside the defined built-up area, it would harm the character, appearance, and intrinsic amenity value of the countryside.

d) Land to the rear of 132 High Street, Newington

Land to the rear of 132 High Street, Newington ME9 7JH 19/500029/FULL proposed 4 bedroom detached dwelling

Decision date 25 January 2021 Appeal Ref: APP/V2255/W/20/3247555 19/500029/FULL

13. ... The development would have a significantly urbanising effect upon the site and would substantially change its character. This would result in a diminution of the rural character and appearance of the area.

14. I have been directed to a residential development known as Eden Meadow and the New Farm car sales/workshop site where those developments project further south than that of the appeal site. However, I have not been provided the full details of those developments and when they were granted planning permission. It may be that they predated the revised 2019 National Planning Policy Framework (the Framework) and the 2017 Local Plan. If so, those developments would have related to a different development plan context where different considerations may have applied. I do not consider that those developments would justify either setting aside the current applicable development plan policies or the proposed development at this appeal site.

15...I conclude that the proposed development would not be an appropriate location for a new dwelling having regard to the spatial strategy of the development plan.

Furthermore, the proposed development would have a harmful effect upon the character and appearance of the countryside. The proposal would, therefore, conflict with Policies ST1, ST3, DM9 and DM14 of the Local Plan. These policies seek, amongst other matters, to resist development in the countryside and to conserve and enhance the countryside.

18. Paragraph 213 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The intrinsic character and beauty of the countryside is recognised by the Framework. Development in rural areas is not precluded but the Framework indicates that great weight should be given to the benefits of using suitable sites within settlements for homes and therefore supports the general thrust of the Local Plan in terms of the location of housing. The appeal site lies adjacent to the built-up area boundary close to services, facilities and public transport and is not constrained by land designations, design, highway, or neighbour living conditions concerns. However, it is nevertheless outside the built-up area and where such development would be harmful to the character, appearance, and wider amenity value of the countryside.

20. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reason given, the appeal should not be allowed.

e) Land Off Jubilee Fields, Upchurch

We also refer to 19/501773/OUT 'Land Off Jubilee Fields Upchurch Kent ME9 7AQ', Outline application for residential development of 41no. two, three and four bedroom houses. This planning appeal in our neighbouring village was rejected in December 2020 (APP/V2255/W/20/3246265)

Even though, at the time, the '5YHLS is no more than 4.6 years and may be closer to 4 years. The shortfall is therefore of concern but cannot be said to be acute.' and the conclusion:

I have found that the proposal conflicts with the development plan as a whole. The other considerations in this case, namely the shortfall in 5YHLS and the provisions of the Framework, are of insufficient weight to outweigh that conflict. For this reason, the appeal is dismissed.

We believe that this decision should equally apply to this application in Newington.

Consistency of decision making is a fundamental principle of planning law and local authorities can only depart from it if they give cogent reasons for doing so.
<http://www.bailii.org/ew/cases/EWCA/Civ/2018/1519.html>

Bearing Fruits 2031: The Swale Borough Local Plan 2017 has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states

“At locations in the countryside, outside the built-up areas boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape

setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities”.

National planning policy does not support this application and it certainly does nothing to protect or enhance the setting.

5 Newington Air Quality Management Area

Most traffic from the proposed development would access the A2 via Church Lane and enter the Newington Air Quality Management area. This would undeniably have a cumulative effect on pollution and the health of residents of our village. The 124 homes recently completed at Watling Place already increases problems of air quality in Newington - one of the two reasons why the Pond Farm appeal was refused after the Planning Inquiry in November 2016

See Pond Farm Inquiry - Appeal decision date 9 January 2016 Appeal Ref: APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140 (subsequently upheld by the High Court and Court of Appeal):

‘even after taking into account the proposed mitigation measures, the appeal proposals would have an adverse effect in air quality, particularly in the Newington and Rainham AQMAs (proposals conflict with NPPF paragraphs 120 and 124)’

25 homes may seem a modest proposal – but the cumulative effects of other recent developments, within Swale and also in the neighbouring authority of Medway which has permitted large developments in Rainham, will result in an increase in traffic flows through Newington. These combined cumulative developments already have a significant effect on the health of village residents, especially children and the elderly.

We are not aware of a separate report on

The Planning Statement deals with the topic in two paragraphs (5.6.1 and 5.6.2); the latter states:

‘Based on the assessment results, air quality is not considered a constraint to planning consent and the proposed development is considered suitable for residential use’ The assessment results do not seem to be in the public domain and we are unsure by whom the development is seen as suitable.

In the absence of this data we note the following:

a) We are unsure what, if any, data has been used to arrive at the conclusion that the site is suitable.

NB There were sporadic roadworks due to emergency gas repairs along the A2 through 2018 and into 2019. Newington High Street was closed completely for 5 weeks in summer 2019 for further emergency work to replace pipework. A larger 42 week scheme to replace all pipework began in September 2019 with one-way operation on different stretches since. The High Street was closed again in the early summer of 2020 to relocate a main valve and there have been several closures since due to emergencies and the new road junction to Watling Place. There was also lighter traffic due to the Covid-19 emergency. We therefore submit that air pollution readings over the past two years are not typical and cannot be considered as a baseline when estimating future pollution levels.

b) Air Quality Management Area in Newington.

Newington Parish Council is working with MidKent Environmental Services and new, more accurate (PM10 and PM 2.5) monitoring equipment has recently been installed in the village centre. In addition to the vehicle numbers please consider also recent evidence of increased harm to those who have suffered Covid-19 from vehicle pollution. We note that the submitted Air Quality assessment proposes no significant mitigation measures.

c) Air quality concerns immediately East of Newington

The 20 April 2020 Environmental Protection Report informs the intention for the ... declaration of an AQMA in the Keycol Hill area in response to exceedances shown in 2019.

Therefore, I would recommend that a revised AQA is necessary to include 2019 data and the additional tubes to be included in the model. This is due to the significant air quality sensitivity that exists currently in the area and the need to address the worst case scenario.

Receptors that show moderate or substantial are R4; R5; R7; R14; R15. All receptors which show the highest impact on air quality are within the Newington AQMA.

There are therefore concerns about air pollution to the east and west of this proposed development, currently in open countryside, with AQMAs 300 yards and 2 miles west and the proposal for a new AQMA 1 mile to the east.

d) Air Quality concerns West of Newington – as traffic through Newington passes to and from Rainham. please see:

Letter from Head of Planning Medway Council to Planning Officer at Swale Borough Council 24 February 2017 in response to the application for 124 homes on the A2 – now Watling Place

Neither the submitted Air Quality Assessment, as amended, nor the letter from the applicant's Air Quality Consultants, has assessed the impact of the development on the Rainham Air Quality Management Area, which is located approximately 1.8 miles (2.9km) west of the application site.

Without evidence to the contrary and in the absence of an appropriate assessment Medway Council is unable to assess the full impact the development would have upon the Rainham Air Quality Management Area and as such, the development would be contrary to the provisions of paragraph 124 of the National Planning Policy Framework, the National Planning Practice Guidance in regard to Air Quality and Policy BNE24 of the Medway Local Plan 2003.

e) Relevant case history in Newington

The potential effect on air quality in Newington was one of the two reasons why the Pond Farm appeal was refused after the Planning Inquiry in November 2016 See Pond Farm Inquiry - Appeal decision date 9 January 2016 Appeal Ref: APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140 (subsequently upheld by the High Court and Court of Appeal):

'even after taking into account the proposed mitigation measures, the appeal proposals would have an adverse effect in air quality, particularly in the Newington and Rainham AQMAs (proposals conflict with NPPF paragraphs 120 and 124)'

The Court of Appeal decision [EWHC 2768 (Admin)] 12 September 2019 (between Gladman Developments and Secretary of State for Communities and Local Government, Swale Borough Council & CPRE Kent

71. It was not unreasonable to think that the section 106 obligations represented the basis on which he was being invited to conclude that the financial contributions and proposed mitigation measures were adequate and would be effective. His conclusions show very clearly that he was unconvinced by both parts of the mitigation strategy – the financial contributions and the mitigation measures themselves.

77.... As Dr Bowes submitted, an essential purpose of the air quality action plans was to improve air quality in the Air Quality Management Areas, which, as the air quality action plan for Newington made quite clear, might require planning permission to be refused where effective mitigation could not be secured. Proposed development such as this, judged likely to worsen air quality in a material way because the proposed mitigation had not been shown to be effective, was inevitably inconsistent with the air quality action plans.

As well as this planning inspectorate decision we cite the Planet Earth decision and the Coroner verdict following the tragic death of Ella Adoo-Kissi-Debrah in Lewisham. We wish to protect the health of residents, especially young children and the vulnerable elderly in our village.

As the effect of air-quality is given such scant consideration in the applicant's documents we note there are no proposed mitigation measures.

f) Conditions recommended on a current planning application in Newington

We note that for the current planning application for 20 dwellings (20/505059/FULL: Willow Trees, 111 High Street, Newington ME9 7JJ, Highways England have commented comments on the effect of the application to the proposed improvements to A249 junctions:

It is therefore necessary, via the imposition of a condition, to ensure that there are no occupancies in this development prior to the completion of the junction improvements at M2 J5.

We are puzzled why there are no similar comments on this larger planning application a few hundred yards north- west of the High Street site above.

Newington Parish Council is concerned that, if/when improvements to the A249/M2J5 junction are made, this will result in increased traffic flow through the village, impacting through increased pollution within our AQMA

Planning Statement

5.6.1 Air Quality The site is located within the vicinity of an area designated by Swale Borough Council as experiencing elevated pollutant concentrations. Subsequently, there is potential to introduce future site users into an area of poor air quality as well as to cause air quality impacts at nearby sensitive locations.

5.6.2 Based on the assessment results, air quality is not considered a constraint to planning consent,

We note there are no proposed mitigation measures that would effectively prevent an increase in traffic pollution.

6 Transport

We believe the transport assessment does not present a true picture of services provided:

There is a poor train services and buses do not operate in the evening, Sundays or Bank Holidays. It should be noted that bus services are roughly hourly, with 'direct' routes alternating with those via other local villages and taking an hour to Chatham. On weekdays the last bus to stop at Newington is 18.36 and 18.29 on Saturdays. There is a three hour gap between the more direct service to Chatham at 06.31 (terminates at Medway Hospital) and the next at 09.11.

The Transport Statement states that services to London Victoria are provided hourly. From Monday to Friday there is a service to London Victoria at 05:50, 06.20, 06.49, 07:18, 07:50, 08:20, 08:48 and 09:20 (also 06.31 and 08.01 to Cannon Street). Trains are then hourly until schools close when there are 2 additional trains at 16.52 (London-bound) and 16:36 (Doverbound), hourly thereafter and hourly at weekends.

Therefore it is unclear how this Transport Statement meets the requirements of Paragraph 110 of the NPPF "Applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations."

We question the effectiveness of measures proposed to encourage cycling and walking (welcome packs etc).

There is nothing here to address the needs of those with disabilities of reduced mobility; indeed, a development outside the village built-up area is very unhelpful to these.

7 The five year supply

We understand that Swale currently has a 4.6 year supply (ie an annual shortfall of 310 homes) and would submit that this is close enough for the harm from this proposed development to outweigh the need.

We repeat the December 2020 planning appeal decision

19/501773/OUT Land Off Jubilee Fields Upchurch (APP/V2255/W/20/3246265)

I have found that the proposal conflicts with the development plan as a whole. The other considerations in this case, namely the shortfall in 5YHLS and the provisions of the Framework, are of insufficient weight to outweigh that conflict. For this reason, the appeal is dismissed.

The principle of consistency within planning decisions requires that a previous decision is capable of being a material consideration in a subsequent similar or related decision.

8 Not a Sustainable development

The proposal does not meet the definition of sustainable development in rural areas

“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

It does not provide housing for agricultural workers in the neighbouring fields and so is contrary to the principle.

Para 108 of the NPPF - In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

This site was not put forward in the call for sites and has not been recommended for allocation in the draft plan. Indeed the Swale Local Plan Panel on 29 October 2020 followed the officer recommendation that no sites in Newington should be progressed for inclusion as allocations in the Local Plan Review. This was accepted unanimously at full council.

The Transport Statement does not actually state how appropriate opportunities to promote sustainable transport modes have been– or can be – taken up, given the type of development and its location.

The December 2020 planning appeal decision 19/501773/OUT Land Off Jubilee Fields Upchurch (APP/V2255/W/20/3246265) there is no specific evidence to suggest that the need for affordable homes in Upchurch is particularly pressing. In the short term, the school would face difficulties accommodating the extra 11 children

We believe the same argument applies to Newington.

The reference to electric vehicle charging points is a requirement of all local applications and so a token gesture here. There is no mention of heat source pumps, so presumably these new homes will rely on polluting gas boilers; we also regret the absence of solar panels; these omissions presumably on grounds of cost.

The proposed housing development outside the established built-up area of the village cannot be described as ‘sustainable development’ as defined by the NPPF. We believe residents would drive to schools, doctors, shops and the better rail services from Rainham and Sittingbourne; that they would choose not to take the 10 minute walk to access the bus service which is very limited in terms of route and regularity; therefore increasing pollution further.

The proposal does nothing to improve the economy of Newington, there are no obvious social benefits and clear environmental harm through increased pollution and the loss of farmland.

Newington Parish Council requests that, in the event of the planning officer recommending approval, this response be forwarded to all members of planning committee as well as the customary summary in the officer report.

Appendix 1:

Properties with planning permission in Newington since 2011

Known As	Properties Count	Decision Issued Date	Planning Reference
Playstool Close	4	Feb-11	SW/10/1630
Vicarage Court	10	Jul-11	SW/10/1629
Hidden Mews	4	Dec-12	SW/12/0637
Total 2011 pre 2014	18		
School Lane (Parsonage Farm)	14	May-15	SW/14/0486
Tractor shed (Bull Lane)	1	Oct-15	15/504706
Church Lane	1	Oct-16	16/505663
Former Workingmen's Club	11	Jul-17	16/506166
Chesley Oast	5	Aug-17	16/506159
Eden Meadow	9	Sep-17	16/505861
High Oak Hill (Harbex)	6	Nov-17	17/504376
The Willows (?9 London Road)	1	Dec-17	17/503349
Land N. of the High Street (Persimmon)	124	Apr-18	60/501266
Callaways Lane	1	Sep-18	18/503564
The Tracies	5	May-19	18/505315
Car Wash (studio flat)	1	Jul-19	17/504813
Cromas (Land Adjacent)	1	Jan-20	19/506356
Total 2014 to 2020 (March)	180		
Overall Total Since 2011	198		

Further comment:

Application: 21/504028/FULL Land At School Lane, Newington ME9 7JU

Proposal: Erection of 25no. residential dwellings and the provision of a 20 space staff car park and 20 space pupil pick-up/drop-off area for Newington C of E Primary School, together with associated access, landscaping, drainage and infrastructure works.

These comments are in addition to those previously submitted by Newington Parish Council. Newington Parish Council has commissioned an independent report from the University of Kent Centre for Health Service Studies to examine the air quality reports that form part of each of the four significant planning applications current in the Village and the data available from the air quality monitoring devices in Newington. The report is on the Midkent planning portal

In summary this says, of the Land at School Lane report submitted by the applicant:

4.3.1. Consideration of committed development is incomplete

72. The AQA for School Lane [3] does not include 20/505059/FULL (Willow Trees), Eden Meadow (20/501475/FULL), or 21/505722/OUT (128 High Street) as part of the proposed development scenario.

73. Both Willow Trees and Eden Meadow were submitted prior to School Lane so these could have been included. 128 High Street was submitted after School Lane so it is not unusual for this to be missing. However, it is still worth noting that it is not considered.

4.3.2. Initial model does not meet minimum requirements for model adjustment

75. Out of 15 locations, 11 (73%) have an error of 25% or more. The model systematically under-predicts (every location), with an average underprediction of 11.25 µg/m³

76. Following the same argument outlined for Eden Meadows given above under the same subsection heading “Initial model does not meet minimum requirements for model adjustment”, the model inputs should have been re-examined and the model re-ran.

4.3.3. Model uncertainty statistics not reported

77. It is usual to report uncertainty statistics concerning the final model, at least RMSE. This has not been done.

78. The pre-adjustment model has weak correlation, an RMSE in excess of 25% of the objective reference of 40 µg/m³ and a poor fractional bias.

80. As we have already outlined, the initial model should not have proceeded to adjustment via a factor without revision and re-execution.

In conclusion

93. ...It is not possible to conclude that any of these models are an accurate representation of reality

4. each of them displays varying degrees of flaw in air quality modelling and model uncertainty which needs addressing

5. The predictions computed for each of the AQAs for these developments are inconsistent

7. Proposed mitigation for cumulative impact are simply vague suggestions with not reasoning or rationale provided as to their impact of implementation feasibility

8. Current levels for NO₂, PM_{2.5} and PM₁₀ within Newington exceed WHO guidelines for health.

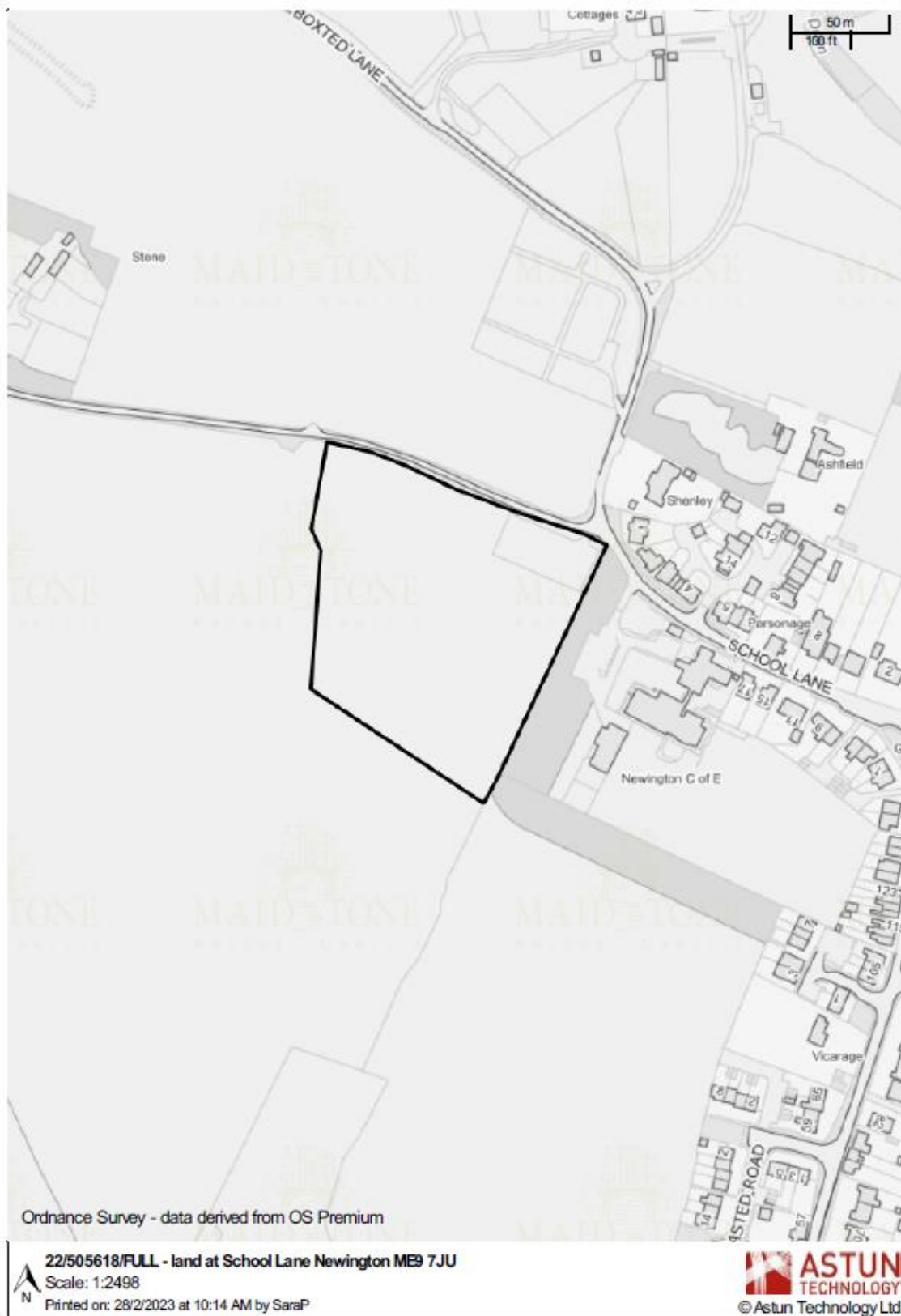
9. The Newington AQMA has exceed NO₂ objectives in the last reliable year

10. the planning applications should be rejected on the grounds of air quality at this time

This shows the likely damage to the health of Newington residents from the cumulative effect of further housing development in the village.

Please see the independent report from the University of Kent Centre for Health Service Studies which examines the air quality reports that form part of each of the four significant planning applications current in the Village and the data available from the air quality monitoring devices in Newington.

Newington Parish Council requests that this response be forwarded to all members of planning committee as well as the customary summary in the officer report.



This page is intentionally left blank

APPENDIX 1

1. Appendix 1 – Newington Parish Council Comments:

Application: 21/504028/FULL Land At School Lane, Newington ME9 7JU

Proposal: Erection of 25no. residential dwellings and the provision of a 20 space staff car park and 20 space pupil pick-up/drop-off area for Newington C of E Primary School, together with associated access, landscaping, drainage and infrastructure works.

Newington Parish Council objects to this application.

Our submission outlines our objections, referencing these to relevant reports (from Swale planning officers, SBC policy documents, planning inspectorate decisions and other applicable documents). We show how these material considerations are substantiated in SBC policy and the National Planning Policy Framework.

1 False justification given for this proposal

The proposal for 25 homes is predicated on the supposed need for a new permanent drop-off zone and some additional parking at Newington CP School. This could be met by a permanent arrangement for use of the land currently enjoyed for this purpose.

The applicant's Design and Access Statement

The 'School drop-off and parking area of the proposal is the focal element of the scheme. Newington Church of England Primary School (Newington CEPS) currently have a short term lease arrangement, expiring in June 2022, to use the land off of School Lane as a temporary staff parking and drop off zone. The parking / drop off area is needed because the existing school grounds are constrained and do not provide sufficient car parking for staff nor allow a safe zone for parents to drop off their children.

There are 21 parking spaces on the spacious school site with a total 42 teaching and support staff in the school and adjacent Cherries pre-school. Prior to the temporary parking/drop off area being provided, during peak times the roads easily became congested, causing tension between parents, increased pollution due to idling cars and increased safety risks.

This temporary site was originally farmland, repurposed with a hard surface for construction vehicles and then as a car park for the portacabin sales office when the landowner sold the land opposite for the construction of 14 homes as Blaxland Grange. Through Members' grants the School was able to construct a secure pedestrian route from school to this land. It is our understanding that no planning application was made for change of use of the land from agriculture to contractor hardstanding/ school use and that the land is currently registered still listed as for agricultural use.

Although an improvement from the existing school site, the temporary parking/drop off area does not meet the full requirements of the school.

The current area is probably sufficient for 20 additional staff car parking spaces, and two or three spaces of off-road short-stay parking for visitors during the day as well as a drop-off zone for blue badge holders, taxis and parents. Like most schools Newington CEP has a policy of no vehicle movements on the school site at the beginning and end of the school day.

The facility will be delivered through a freehold transfer in perpetuity to Kent County Council which can be secured by way of planning obligation.

APPENDIX 1

This could be met through the landowner simply gifting the current site to Kent County Council rather than short-term agreements.

The 'consultation' with parents of Newington School pupils had a fairly high response rate due to the fact that it was sent by the School (roll 200 in the summer term, 120 families consulted, 54% response rate) but the question was:

'Following the successful establishment of the drop off zone, we wanted you to know that the current arrangement is up for review. Under a new scenario, and with enough support, we would potentially be provided with a fully tarmacked and fit for purpose car park, drop off zone and paved path in to school. This would be provided in perpetuity by a community contribution from a Developer as part of a potential housing development adjacent. Please complete and submit the form below so your voice can be heard and will be considered in any future developments. Kind regards, Newington CEP School'

Of the 120 families 55 did not respond and 56 said they would use the drop-off area. Their support was for this facility – not for a development of 24 homes.

Currently visitors park on the road or use the parish church car park 300 metres away.

2 The location of the proposed development

It is hard to envisage a less-suitable site for a housing development.

The proposed site is at the junction of School Lane with Bricklands (known locally at Mill Hill or 'the road with no name'!)

Church Lane is an ancient highway and the only road to the north of the A2. As such it serves as access and egress for its residents and those using the roads leading from it. As well as being narrow, Church Lane offers the only parking for most of the 135 houses either side of the road and for some of the properties on the A2. Whilst just manageable at some times of the day, Church Lane often comes to a standstill at the start and end of the school day. As most of the Village population live South of the A2, parents choose to drive, often backing-up along the A2 until there is space to enter Church Lane.

There are two roads off Church Lane: St Mary's View and Denham Close. The former was the subject of an earlier unsuccessful planning application for extension in 2015 with the planning appeal dismissed in March 2017 (see below)

At its northern end Church Lane divides west to School Lane, north via Wardwell Lane, a narrow route to Lower Halstow; and East becoming Iwade Road / High Oak Hill towards the much-enlarged Iwade, many residents of which use it as 'rat-run' for the station and towards the Medway Towns.

School Lane stretches only 100 yards before dividing into Bricklands (a single track by-way) and Boxted Lane (again narrow, but with passing points); both lead to Breach Lane.

Boxted Lane floods for much of the year as water flows from adjacent fields. Attempts at alleviation through roadside grips have not been successful. Kent County Council have confirmed that the cost of a modern drainage system would be prohibitive; residents and road users are left with the situation where, on request, floodwater is pumped into tankers when necessary. This has been confirmed as policy by the KCC Cabinet Member for Highways and Transport.

APPENDIX 1

The School has been here since Victorian times; plans to relocate it to a new site, south of the A2, off Playstool Road were dropped 40 years ago due to KCC finances. Some expansion of parking and a drop-off facility are needed. A housing development would make the traffic situation considerably worse. The applicants Transport statement (5.5.6) estimates '117 vehicle trips across the 12 hour weekday period'; we submit that most of these would be at peak times to coincide with the start and end of the school day as well as others from the village and Iwade on their way to and from work.

An unreliable traffic count was undertaken in summer 2016 (end of the school summer term) and an up-to-date one is required for period covering normal term-time school days.

We have an ongoing concern for the safety of children who walk to school and are unconvinced by the applicants proposal in 'Access and Highways' para 3.3.4 of their Planning Statement.

We are relieved that Fernham Homes decided not to proceed with plans to build between Bricklands and Boxted Lane as this would abut the village cemetery – a place of calm, greatly valued by the families of deceased who regularly visit.

We note that the Newington Parish Council was, unusually, formally consulted on a planning application in Bobbing, our neighbouring parish (Application: 21/500173/FULL Land East Of Hawes Woods, High Oak Hill, Iwade Road, Newington ME9 7HY Proposal: Retrospective application for change of use of land from agricultural to animal rescue including new stock fencing and gates, mobile field shelters, small animal houses, shipping containers for storage, associated boundary treatment and stationing of a mobile caravan for use as a residential unit for staff.) the officer email: 'The neighbouring Newington and Lower Halstow Parish Councils have been consulted, at the request of the Development Manager, Planning Services, due to potential effect on roads leading to the site'. This clearly acknowledges a concern about traffic on the rural road network in this vicinity and the cumulative effect of any developments.

The development at Blaxland Grange was the subject of a condition that all construction traffic should reach the site via Iwade Road rather than Church Lane; a further acknowledgment of congestion problems on the narrow Church Lane, as well as the height restriction under the railway bridge.

There are also concerns about sewerage in this part of the village. A complete upgrade of the main sewer running south to Lower Halstow is long overdue and has been consistently postponed due to cost. Currently sewage is stored in underground tanks for pumping outside peak hours. There has been flooding on a number of occasions.

The applicant refers to this (6.2.11) as a 'currently underdeveloped part of the village'. There is a good reason for the lack of development: the road network is poor and it is outside the defined built up area.

3 Swale Borough Council and NPPF Policies relevant to this proposal

- It is not part of the existing Swale Borough Council Plan
- It is not included in the latest consultation exercise on the local plan
- It was not part of the 'call for sites' for the Strategic Housing Land Availability Assessment in October 2020
- The Swale Local Plan Panel on 29 October 2020 followed the officer recommendation 'that no sites in Newington should be progressed for inclusion as allocations in the Local Plan Review'.

APPENDIX 1

Therefore this application is contrary to Swale's policies and procedures. It is a premature application.

In the Local Plan, Policy ST 3 identified Newington as a Tier 4 Rural Local Service Centre with noted limitations to expansion, so the village was allocated a growth rate of 1.3%. Even in the 2017 edition of the Local Plan, the restrictions on growth were reiterated with the single exception of "Land North of the High Street".

The following facts emphasise the extent that Newington has already played in fulfilling the targets of the Local Plan:

1. Total already built in Newington 2014 to now is 180 properties
 - a. For the target six years to date that is 297.5%
 - b. Or for the full 17 year quota that is already 105.3%

Since the Census in 2011 (population 2551 in 1089 household spaces; data from 2021 not yet available), this village has grown by 18%. (for detail used in the calculation please see appendix

1)

In reality: the village school has vacancies only in specific year groups; there is one convenience store, a public house and a joint pharmacy/post office; the GP surgery is not accepting new patients (extensively covered by recent media reports highlighting difficulties for Newington residents to obtain the services of the doctor locally by telephone or face-to-face); there is a limited weekday bus service, nothing on Sundays; one train per hour in each direction stops at Newington station. This was one reason for the Local Plan Panel October 2020 decision not to progress allocations in the local plan review.

The Parish Council is sure that Members will understand the cumulative effect of this increase and that of the proposal for a further 25 homes.

This application is outside the built-up (see policies E6 RC3). The exception – where a proposal is 'able to demonstrate that it would contribute to protecting and where appropriate enhancing the intrinsic value, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities'. does not apply.

This proposal does not enhance the countryside or the vitality of the rural community.

The proposal does not meet the definition of sustainable development in rural areas "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

It does not provide housing for agricultural workers on neighbouring land and so is contrary to the principle.

The land is not a 'brownfield' site; it is agricultural land Policy DM31: Agricultural Land – confirms development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up areas.

Development on BMV will not be permitted unless:

1. The site is allocated
2. There is no alternative site on land of a lower grade than 3a
3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely significant losses of high-quality agricultural land

APPENDIX 1

Fernham Homes gave a presentation to Newington Parish Council in June 2021 and were clear that they saw the potential for further development adjacent to this site; this would lead to even more significant loss of agricultural land as well as a seriously detrimental effect on the rural character of the area.

4 The proposed development is outside the defined urban boundary of our village.

There is one planning inspectorate decision (2016) close to this site. We also give detail of three more recent inspectorate decisions 2018-2021 where dismissal of the appeals was due to the proposal being outside the defined built-up area. We quote also from the 2020 decision in a neighbouring village, dismissed on the same grounds.

a) Land to East of St Mary's View, Church Lane,

The closest application for a significant development was Land to East of St Mary's View, Church Lane, 300 yards from this application. 15/509664/OUT 'Outline application for the erection of up to 26 residential dwellings with all matters reserved with the exception of access' planning application from November 2015, refused at Swale Borough Council Planning Committee in May 2016, decision notice July 2016, with the subsequent planning appeal dismissed in July 2016

The close proximity to this application makes the reasons for the inspector decision relevant:

Appeal Ref: APP/V2255/W/16/3157268 Decision date 6 March 2016 Application 15/509664/OUT

29. The site comes within the Iwade Arable Farmlands as identified by the Swale Landscape Character and Biodiversity Appraisal SPD. This area is characterised by very gently undulating rural landscapes that may traditionally have supported fruit growing. The SPD refers to the large arable/horticultural fields with regular field patterns and rectangular shapes predominating, and a sparse hedgerow pattern.

34. ...in my view the proposal would significantly harm the rural character and setting of Newington. This harm would not be mitigated by the landscape proposals. The proposal would therefore conflict with paragraph 17 of the National Planning Policy Framework, which amongst other matters states that regard should be had to the different roles and character of different areas, and that the intrinsic character and beauty of the countryside should be recognised.

36. I therefore conclude that the proposal would significantly harm the character and appearance of the surrounding area and would fail to comply with Local Plan policies E6 and E9. Loss of Agricultural Land

37. The appellant acknowledges that the proposal would result in the loss of an area of BMV land. Policy DM31 of the emerging local plan sets out that development on BMV land will only be permitted when there is an overriding need that cannot be met on land within the built up area boundaries, unless the site is

43. At the heart of the Framework is a presumption in favour of sustainable development. There are three dimensions to sustainable development, social, economic and environmental. These roles should not be undertaken in isolation, because they are mutually dependent. In social terms the proposal would provide market and affordable housing, within walking distance of a primary school, shops, services and public transport.

APPENDIX 1

44. Economically the proposal would provide employment during the construction period and would make a modest contribution towards household expenditure in the area. The developer contributions would provide mitigation against the adverse impacts of the proposal on local infrastructure and therefore are not an economic benefit of the proposal. In environmental terms, the proposal would result in the loss of BMV land, and would result in harm to the landscape and character of the area. Whilst the proposal includes mitigation measures these would not outweigh the environmental harm arising from the proposal

46. In the absence of a five year supply of housing, the Framework recognises the intrinsic beauty and character of the countryside as a core planning principle, and it should be given significant weight.

47. Whilst there is an existing shortfall in the five year housing land supply, it is likely that this will be resolved in the context of the emerging Local Plan and therefore the existing shortfall is likely to be of limited duration. In this context there is insufficient evidence to persuade me that the loss of the BMV land which comprises the appeal site is necessary to meet the housing needs of the Borough.

48. I have concluded above that the proposal would cause significant harm to the rural character and appearance of the site and the surrounding area and would also result in the loss of BMV land.

50. Taking everything into account, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.

The Eden Meadow development at Boyces Hill Newington(16/505861/OUT, for 9 dwellings) was rejected at the 2 February 2017 Swale Borough Council Planning Committee meeting on the advice of officers.

Extract from Officer report

- i. It is outside the defined urban boundaries of Newington
- ii. Newington is considered a less sustainable settlement (services, transport and access to employment)
- iii. There would be significant adverse impact on the landscape character, quality and value of the rural setting.
- iv. There would be significant, permanent and unnecessary loss of a large area of best and most versatile agricultural land.
- v. 'As such it is considered that the proposed development does not accord with the National Planning Policy Framework' (see report to 2 February meeting (10.1) for detail Newington Parish Council believes this was an accurate and balanced report.

The reasons for refusal, above, apply to the current proposal.

The subsequent Appeal (non-determination) was allowed. Decision date 31 March 2017
Appeal Ref: APP/V2255/W/16/3162806

7. The appeal site lies adjacent but outside the built-up area for Newington as defined in the "Swale Borough Local Plan 2008" (the LP). Saved Policy H2 states that residential development in the countryside will only be permitted where it meets one of the exceptions

APPENDIX 1

listed in Policies E6 and RC3. The provision of 9 open market dwellings does not fall within any of the exempted categories and consequently there would be conflict with the LP in this regard.

8. However, the LP is now time-expired and whilst this does not mean that it cannot carry weight, its policies need to be considered in relation to their consistency with the Framework.

The Local Plan, subsequently examined in summer 2017 and found to be sound is now valid and current; its policies apply fully.

The three most recent appeals to the planning inspectorate have been rejected on the grounds of being outside the urban boundary. (see: 148 High Street: PINS ref APP/V2255/W/17/3185369; 6 Ellen's Place: PINS ref APP/V2255/W/20/3250073; 132 High Street: PINS ref APP/V2255/W/20/3247555.

In each case the Inspector decisions were that any, then, deficit in Swale's current supply was not a reason to approve the applications.

b) 148 High Street, Newington (2 appeals)

An Appeal for 3 homes on a site south side of the A2 at 148 High Street, Newington, was dismissed by the Planning Inspectorate.

Decision date 17 January 2018 Appeal Ref: APP/V2255/W/17/3185369
Application 17/500946/FULL

4 ...the area in which permission is sought to construct three new dwellings lies beyond the settlement boundary. For planning purposes the site is therefore within the countryside.

6. Although the commercial activities to the east have encroached to a small degree into the area to the rear of the High Street, the remainder has retained its open, rural character. Any other existing buildings appear to be part of the agricultural activities that previously took place in the area and are typical of those that can be seen in the countryside. There is therefore a significant change of character between the development which fronts the High Street and the area to the south.

7. The largest of the proposed dwellings would be a clear incursion into the open, rural landscape and countryside to the south of the High Street.... the introduction of the proposal as a whole with its access road, garages, parking areas, gardens and associated residential paraphernalia, would significantly erode the open, rural character of the area.

8 ...Consequently, the development as a whole would represent an unacceptable incursion into the countryside which would be harmful to the area's open, rural character and appearance. This would be the case regardless of the precise details of the layout or design of the individual buildings.

9. I therefore conclude that the proposal would harm the character and appearance of the countryside, contrary to Policies ST3, CP3, CP4 and DM14 of the Local Plan, all of which seek to conserve and enhance the countryside.

10. Notwithstanding the fact that Newington is an accessible village with a significant range of services, the Local Plan has defined its built-up area boundary. The supporting text of Policy ST3 recognises that development opportunities within the village are limited for a variety of reasons, including poor air quality and the surrounding high quality agricultural

APPENDIX 1

land. Any residential development beyond the boundary established by the Local Plan would therefore conflict with the aim of providing homes in accordance with the Borough's identified and agreed settlement hierarchy.

15. I am aware that an Inspector granted planning permission for development of nine dwellings at Ellen's Place in March 2017. However, that scheme was assessed against different policies and when the Council was unable to demonstrate a five year housing land supply. The Inspector found that even though that scheme did not conform to the development plan, the adverse impacts did not significantly and demonstrably outweigh the benefits. The particular circumstances of that site and the policies which applied at the time therefore justified allowing the appeal.

A further appeal was also dismissed

Land rear of 148 High Street, Newington, ME9 7JH. Decision date 14 August 2020 Appeal Ref: APP/V2255/W/20/3245359 19/505596/FULL "conversion of former agricultural barn to a dwelling house including elderly dependent relative replacement structure, associated car parking and access driveway"

6. Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states "At locations in the countryside, outside the built-up areas boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities".

7. Given that the site's location would be outside the built-up area boundary of Newington, the appeal site would not be an appropriate location for residential development.

9. ...The appeal site is situated within the open land to the south of the High Street and exhibits all the attributes of the countryside.

10. ...The development would have a significantly urbanising effect upon the site and would substantially change its character. It would result in a diminution of the rural character and appearance of the area and negatively impact upon the tranquillity and beauty of the countryside.

12. Furthermore, the proposed development would have a harmful effect upon the character and appearance of the countryside. The proposal would, therefore, conflict with Policies ST1, ST3, DM9 and DM14 of the Local Plan. These policies seek, amongst other matters, development to support the aims of sustainable development, adhere to the Council's settlement strategy and to conserve and enhance the countryside.

17. At the heart of the National Planning Policy Framework (the Framework) is the presumption in favour of sustainable development.. Notwithstanding this, the appeal site lies outside the settlement boundary and is within the countryside, a location that would conflict with the aim of providing homes in accordance with the Borough's identified and agreed settlement hierarchy. Furthermore, I have found that the proposal would harm the rural character and appearance of the countryside.

19. I, therefore, conclude that the adverse impacts would significantly and demonstrably outweigh the moderate benefits of the scheme when considered against development plan

APPENDIX 1

policies and the Framework read as a whole. Consequently, the presumption in favour of sustainable development does not apply in this case.

c) 6 Ellen's Place, Boyces Hill, Newington

6 Ellen's Place, Boyces Hill, Newington, ME9 7JG 19/503203/FULL proposed erection of a chalet bungalow with detached garage; creation of new vehicular access and erection of a detached garage to serve no. 6.

Decision date 3 January 2021 Appeal Ref: APP/V2255/W/20/3250073

5. The new development referred to above, now named Eden Meadow, is a somewhat stark intrusion into the landscape, that was allowed on appeal. I have been supplied with a copy of the appeal decision notice; it is clear that the appeal was determined under earlier circumstances, in particular when the council was unable to demonstrate a 5-year supply of housing land to a significant extent, so that the Inspector decided that the development would contribute significantly in economic and social dimensions that outweighed the conflict with the development plan. I would add, though, that the Inspector stated that "it would introduce a substantial and largely self-contained enclave of development which, in landscape terms, would have little resonance with the more conventional and established arrangements along High Street".

7. Policy ST3 of the Swale Borough Local Plan 2017 (the Local Plan) sets out the settlement hierarchy within the Borough. It is the fifth element of this policy that is pertinent in this case: "5. At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities". Policy DM9 sets out exceptions under which new dwellings will be permitted within the countryside, none of which are applicable here.

8. These policies clearly place stringent restraints on new residential development within the countryside. In spite of the recent development of Eden Meadow, which currently is very raw and may soften as any landscaping scheme evolves, the appeal site is clearly within the countryside. These policies were adopted in 2017, before that latest version of the Nation Planning Policies Framework (the Framework) was published by the government, but the 2019 version continues to support local plan policies that protect the countryside. Framework chapter 15 sets out policies for conserving and enhancing the natural environment. Within this, paragraph 170, part b) is apposite in relation to this case: "170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;" NB: This is retained in the July 2021 version of the NPPF at Para 174 (b).

9. In respect of providing for housing, Framework chapter 5 deals with delivering a sufficient supply of homes. Within this chapter, under the heading Rural housing, are paragraphs 77 and 78. These state, as relevant here, "In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs, ..."; and, "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services". As far as the appeal proposal is concerned, whilst it may be in

APPENDIX 1

a reasonably sustainable location to access shops, public transport and community facilities, there is no local need, particular to the area, that has been identified.

Furthermore, it cannot be said to provide an opportunity for the village to grow and thrive, and it would not support local services to any material extent. The appeal site is not isolated, and therefore Framework paragraph 78 dealing with isolated homes is not relevant.

11. I should also mention that the council currently cannot demonstrate a 5-year housing land supply and the engagement of footnote 7 to Framework paragraph 11 should therefore be considered. However, the council has now been able to identify 4.6 years supply (as compared with the supply of 3.17 years quoted in the Inspector's decision that led to the Eden Meadow development), a shortfall of just 0.4 years.

Conclusions

20. I conclude that the proposed development would be contrary to Policy ST3 of the Swale Borough Local Plan 2017 in that, being outside the defined built-up area, it would harm the character, appearance, and intrinsic amenity value of the countryside.

d) Land to the rear of 132 High Street, Newington

Land to the rear of 132 High Street, Newington ME9 7JH 19/500029/FULL proposed 4 bedroom detached dwelling

Decision date 25 January 2021 Appeal Ref: APP/V2255/W/20/3247555 19/500029/FULL

13. ... The development would have a significantly urbanising effect upon the site and would substantially change its character. This would result in a diminution of the rural character and appearance of the area.

14. I have been directed to a residential development known as Eden Meadow and the New Farm car sales/workshop site where those developments project further south than that of the appeal site. However, I have not been provided the full details of those developments and when they were granted planning permission. It may be that they predated the revised 2019 National Planning Policy Framework (the Framework) and the 2017 Local Plan. If so, those developments would have related to a different development plan context where different considerations may have applied. I do not consider that those developments would justify either setting aside the current applicable development plan policies or the proposed development at this appeal site.

15...I conclude that the proposed development would not be an appropriate location for a new dwelling having regard to the spatial strategy of the development plan. Furthermore, the proposed development would have a harmful effect upon the character and appearance of the countryside. The proposal would, therefore, conflict with Policies ST1, ST3, DM9 and DM14 of the Local Plan. These policies seek, amongst other matters, to resist development in the countryside and to conserve and enhance the countryside.

18. Paragraph 213 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The intrinsic character and beauty of the countryside is recognised by the Framework. Development in rural areas is not precluded but the Framework indicates that great weight should be given to the benefits of using suitable sites within settlements for homes and therefore supports the general thrust of the Local Plan in terms of the location of housing. The appeal site lies adjacent to the built-up area boundary close to services, facilities and public transport and

APPENDIX 1

is not constrained by land designations, design, highway, or neighbour living conditions concerns. However, it is nevertheless outside the built-up area and where such development would be harmful to the character, appearance, and wider amenity value of the countryside.

20. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reason given, the appeal should not be allowed.

e) Land Off Jubilee Fields, Upchurch

We also refer to 19/501773/OUT 'Land Off Jubilee Fields Upchurch Kent ME9 7AQ', Outline application for residential development of 41 no. two, three and four bedroom houses. This planning appeal in our neighbouring village was rejected in December 2020 (APP/V2255/W/20/3246265)

Even though, at the time, the '5YHLS is no more than 4.6 years and may be closer to 4 years. The shortfall is therefore of concern but cannot be said to be acute.' and the conclusion:

I have found that the proposal conflicts with the development plan as a whole. The other considerations in this case, namely the shortfall in 5YHLS and the provisions of the Framework, are of insufficient weight to outweigh that conflict. For this reason, the appeal is dismissed.

We believe that this decision should equally apply to this application in Newington.

Consistency of decision making is a fundamental principle of planning law and local authorities can only depart from it if they give cogent reasons for doing so.
<http://www.bailii.org/ew/cases/EWCA/Civ/2018/1519.html>

Bearing Fruits 2031: The Swale Borough Local Plan 2017 has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states

“At locations in the countryside, outside the built-up areas boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities”.

National planning policy does not support this application and it certainly does nothing to protect or enhance the setting.

5 Newington Air Quality Management Area

Most traffic from the proposed development would access the A2 via Church Lane and enter the Newington Air Quality Management area. This would undeniably have a cumulative effect on pollution and the health of residents of our village. The 124 homes recently completed at Watling Place already increases problems of air quality in Newington - one of the two reasons why the Pond Farm appeal was refused after the Planning Inquiry in November 2016

APPENDIX 1

See Pond Farm Inquiry - Appeal decision date 9 January 2016 Appeal Ref: APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140 (subsequently upheld by the High Court and Court of Appeal):

‘even after taking into account the proposed mitigation measures, the appeal proposals would have an adverse effect in air quality, particularly in the Newington and Rainham AQMAs (proposals conflict with NPPF paragraphs 120 and 124)’

25 homes may seem a modest proposal – but the cumulative effects of other recent developments, within Swale and also in the neighbouring authority of Medway which has permitted large developments in Rainham, will result in an increase in traffic flows through Newington. These combined cumulative developments already have a significant effect on the health of village residents, especially children and the elderly.

We are not aware of a separate report on

The Planning Statement deals with the topic in two paragraphs (5.6.1 and 5.6.2); the latter states:

‘Based on the assessment results, air quality is not considered a constraint to planning consent and the proposed development is considered suitable for residential use’ The assessment results do not seem to be in the public domain and we are unsure by whom the development is seen as suitable.

In the absence of this data we note the following:

a) We are unsure what, if any, data has been used to arrive at the conclusion that the site is suitable.

NB There were sporadic roadworks due to emergency gas repairs along the A2 through 2018 and into 2019. Newington High Street was closed completely for 5 weeks in summer 2019 for further emergency work to replace pipework. A larger 42 week scheme to replace all pipework began in September 2019 with one-way operation on different stretches since. The High Street was closed again in the early summer of 2020 to relocate a main valve and there have been several closures since due to emergencies and the new road junction to Watling Place. There was also lighter traffic due to the Covid-19 emergency. We therefore submit that air pollution readings over the past two years are not typical and cannot be considered as a baseline when estimating future pollution levels.

b) Air Quality Management Area in Newington.

Newington Parish Council is working with MidKent Environmental Services and new, more accurate (PM10 and PM 2.5) monitoring equipment has recently be installed in the village centre. In addition to the vehicle numbers please consider also recent evidence of increased harm to those who have suffered Covid-19 from vehicle pollution. We note that the submitted Air Quality assessment proposes no significant mitigation measures.

c) Air quality concerns immediately East of Newington

The 20 April 2020 Environmental Protection Report informs the intention for the ... declaration of an AQMA in the Keycol Hill area in response to exceedances shown in 2019.

Therefore, I would recommend that a revised AQA is necessary to include 2019 data and the additional tubes to be included in the model. This is due to the significant air quality sensitivity that exists currently in the area and the need to address the worst case scenario.

APPENDIX 1

Receptors that show moderate or substantial are R4; R5; R7; R14; R15. All receptors which show the highest impact on air quality are within the Newington AQMA.

There are therefore concerns about air pollution to the east and west of this proposed development, currently in open countryside, with AQMAs 300 yards and 2 miles west and the proposal for a new AQMA 1 mile to the east.

d) Air Quality concerns West of Newington – as traffic through Newington passes to and from Rainham. please see:

Letter from Head of Planning Medway Council to Planning Officer at Swale Borough Council 24 February 2017 in response to the application for 124 homes on the A2 – now Watling Place

Neither the submitted Air Quality Assessment, as amended, nor the letter from the applicant's Air Quality Consultants, has assessed the impact of the development on the Rainham Air Quality Management Area, which is located approximately 1.8 miles (2.9km) west of the application site.

Without evidence to the contrary and in the absence of an appropriate assessment Medway Council is unable to assess the full impact the development would have upon the Rainham Air Quality Management Area and as such, the development would be contrary to the provisions of paragraph 124 of the National Planning Policy Framework, the National Planning Practice Guidance in regard to Air Quality and Policy BNE24 of the Medway Local Plan 2003.

e) Relevant case history in Newington

The potential effect on air quality in Newington was one of the two reasons why the Pond Farm appeal was refused after the Planning Inquiry in November 2016 See Pond Farm Inquiry - Appeal decision date 9 January 2016 Appeal Ref: APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140 (subsequently upheld by the High Court and Court of Appeal):

'even after taking into account the proposed mitigation measures, the appeal proposals would have an adverse effect in air quality, particularly in the Newington and Rainham AQMAs (proposals conflict with NPPF paragraphs 120 and 124)'

The Court of Appeal decision [EWHC 2768 (Admin)] 12 September 2019 (between Gladman Developments and Secretary of State for Communities and Local Government, Swale Borough Council & CPRE Kent

71. It was not unreasonable to think that the section 106 obligations represented the basis on which he was being invited to conclude that the financial contributions and proposed mitigation measures were adequate and would be effective. His conclusions show very clearly that he was unconvinced by both parts of the mitigation strategy – the financial contributions and the mitigation measures themselves.

77.... As Dr Bowes submitted, an essential purpose of the air quality action plans was to improve air quality in the Air Quality Management Areas, which, as the air quality action plan for Newington made quite clear, might require planning permission to be refused where effective mitigation could not be secured. Proposed development such as this, judged likely to worsen air quality in a material way because the proposed mitigation had not been shown to be effective, was inevitably inconsistent with the air quality action plans.

APPENDIX 1

As well as this planning inspectorate decision we cite the Planet Earth decision and the Coroner verdict following the tragic death of Ella Adoo-Kissi-Debrah in Lewisham. We wish to protect the health of residents, especially young children and the vulnerable elderly in our village.

As the effect of air-quality is given such scant consideration in the applicant's documents we note there are no proposed mitigation measures.

f) Conditions recommended on a current planning application in Newington

We note that for the current planning application for 20 dwellings (20/505059/FULL: Willow Trees, 111 High Street, Newington ME9 7JJ, Highways England have commented comments on the effect of the application to the proposed improvements to A249 junctions:

It is therefore necessary, via the imposition of a condition, to ensure that there are no occupancies in this development prior to the completion of the junction improvements at M2 J5.

We are puzzled why there are no similar comments on this larger planning application a few hundred yards north- west of the High Street site above.

Newington Parish Council is concerned that, if/when improvements to the A249/M2J5 junction are made, this will result in increased traffic flow through the village, impacting through increased pollution within our AQMA

Planning Statement

5.6.1 Air Quality The site is located within the vicinity of an area designated by Swale Borough Council as experiencing elevated pollutant concentrations. Subsequently, there is potential to introduce future site users into an area of poor air quality as well as to cause air quality impacts at nearby sensitive locations.

5.6.2 Based on the assessment results, air quality is not considered a constraint to planning consent,

We note there are no proposed mitigation measures that would effectively prevent an increase in traffic pollution.

6 Transport

We believe the transport assessment does not present a true picture of services provided:

There is a poor train services and buses do not operate in the evening, Sundays or Bank Holidays. It should be noted that bus services are roughly hourly, with 'direct' routes alternating with those via other local villages and taking an hour to Chatham. On weekdays the last bus to stop at Newington is 18.36 and 18.29 on Saturdays. There is a three hour gap between the more direct service to Chatham at 06.31 (terminates at Medway Hospital) and the next at 09.11.

The Transport Statement states that services to London Victoria are provided hourly. From Monday to Friday there is a service to London Victoria at 05:50, 06.20, 06.49, 07:18, 07:50, 08:20, 08:48 and 09:20 (also 06.31 and 08.01 to Cannon Street). Trains are then hourly until schools close when there are 2 additional trains at 16.52 (London-bound) and 16:36 (Doverbound), hourly thereafter and hourly at weekends.

Therefore it is unclear how this Transport Statement meets the requirements of Paragraph 110 of the NPPF "Applications for development should:

APPENDIX 1

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.”

We question the effectiveness of measures proposed to encourage cycling and walking (welcome packs etc).

There is nothing here to address the needs of those with disabilities of reduced mobility; indeed, a development outside the village built-up area is very unhelpful to these.

7 The five year supply

We understand that Swale currently has a 4.6 year supply (ie an annual shortfall of 310 homes) and would submit that this is close enough for the harm from this proposed development to outweigh the need.

We repeat the December 2020 planning appeal decision

19/501773/OUT Land Off Jubilee Fields Upchurch (APP/V2255/W/20/3246265)

I have found that the proposal conflicts with the development plan as a whole. The other considerations in this case, namely the shortfall in 5YHLS and the provisions of the Framework, are of insufficient weight to outweigh that conflict. For this reason, the appeal is dismissed.

The principle of consistency within planning decisions requires that a previous decision is capable of being a material consideration in a subsequent similar or related decision.

8 Not a Sustainable development

The proposal does not meet the definition of sustainable development in rural areas

“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

It does not provide housing for agricultural workers in the neighbouring fields and so is contrary to the principle.

Para 108 of the NPPF - In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

APPENDIX 1

This site was not put forward in the call for sites and has not been recommended for allocation in the draft plan. Indeed the Swale Local Plan Panel on 29 October 2020 followed the officer recommendation that no sites in Newington should be progressed for inclusion as allocations in the Local Plan Review. This was accepted unanimously at full council.

The Transport Statement does not actually state how appropriate opportunities to promote sustainable transport modes have been– or can be – taken up, given the type of development and its location.

The December 2020 planning appeal decision 19/501773/OUT Land Off Jubilee Fields Upchurch (APP/V2255/W/20/3246265) there is no specific evidence to suggest that the need for affordable homes in Upchurch is particularly pressing. In the short term, the school would face difficulties accommodating the extra 11 children

We believe the same argument applies to Newington.

The reference to electric vehicle charging points is a requirement of all local applications and so a token gesture here. There is no mention of heat source pumps, so presumably these new homes will rely on polluting gas boilers; we also regret the absence of solar panels; these omissions presumably on grounds of cost.

The proposed housing development outside the established built-up area of the village cannot be described as ‘sustainable development’ as defined by the NPPF. We believe residents would drive to schools, doctors, shops and the better rail services from Rainham and Sittingbourne; that they would choose not to take the 10 minute walk to access the bus service which is very limited in terms of route and regularity; therefore increasing pollution further.

The proposal does nothing to improve the economy of Newington, there are no obvious social benefits and clear environmental harm through increased pollution and the loss of farmland.

Newington Parish Council requests that, in the event of the planning officer recommending approval, this response be forwarded to all members of planning committee as well as the customary summary in the officer report.

APPENDIX 1

Appendix 1:
Properties with planning permission in Newington since 2011

Known As	Properties Count	Decision Issued Date	Planning Reference
Playstool Close	4	Feb-11	SW/10/1630
Vicarage Court	10	Jul-11	SW/10/1629
Hidden Mews	4	Dec-12	SW/12/0637
Total 2011 pre 2014	18		
School Lane (Parsonage Farm)	14	May-15	SW/14/0486
Tractor shed (Bull Lane)	1	Oct-15	15/504706
Church Lane	1	Oct-16	16/505663
Former Workingmen's Club	11	Jul-17	16/506166
Chesley Oast	5	Aug-17	16/506159
Eden Meadow	9	Sep-17	16/505861
High Oak Hill (Harbex)	6	Nov-17	17/504376
The Willows (?9 London Road)	1	Dec-17	17/503349
Land N. of the High Street (Persimmon)	124	Apr-18	60/501266
Callaways Lane	1	Sep-18	18/503564
The Tracies	5	May-19	18/505315
Car Wash (studio flat)	1	Jul-19	17/504813
Cromas (Land Adjacent)	1	Jan-20	19/506356
Total 2014 to 2020 (March)	180		
Overall Total Since 2011	198		

Further comment:

Application: 21/504028/FULL Land At School Lane, Newington ME9 7JU
Proposal: Erection of 25no. residential dwellings and the provision of a 20 space staff car park and 20 space pupil pick-up/drop-off area for Newington C of E Primary School, together with associated access, landscaping, drainage and infrastructure works.

These comments are in addition to those previously submitted by Newington Parish Council. Newington Parish Council has commissioned an independent report from the University of Kent Centre for Health Service Studies to examine the air quality reports that form part of each of the four significant planning applications current in the Village and the data available from the air quality monitoring devices in Newington. The report is on the Midkent planning portal.

In summary this says, of the Land at School Lane report submitted by the applicant:

4.3.1. Consideration of committed development is incomplete

72. The AQA for School Lane [3] does not include 20/505059/FULL (Willow Trees), Eden Meadow (20/501475/FULL), or 21/505722/OUT (128 High Street) as part of the proposed development scenario.

73. Both Willow Trees and Eden Meadow were submitted prior to School Lane so these could have been included. 128 High Street was submitted after School Lane so it is not unusual for this to be missing. However, it is still worth noting that it is not considered.

4.3.2. Initial model does not meet minimum requirements for model adjustment

75. Out of 15 locations, 11 (73%) have an error of 25% or more. The model systematically under-predicts (every location), with an average underprediction of 11.25 µg/m³

APPENDIX 1

76. Following the same argument outlined for Eden Meadows given above under the same subsection heading “Initial model does not meet minimum requirements for model adjustment”, the model inputs should have been re-examined and the model re-ran.

4.3.3. Model uncertainty statistics not reported

77. It is usual to report uncertainty statistics concerning the final model, at least RMSE. This has not been done.

78. The pre-adjustment model has weak correlation, an RMSE in excess of 25% of the objective reference of 40 µg/m³ and a poor fractional bias.

80. As we have already outlined, the initial model should not have proceeded to adjustment via a factor without revision and re-execution.

In conclusion

93. ...It is not possible to conclude that any of these models are an accurate representation of reality

4. each of them displays varying degrees of flaw in air quality modelling and model uncertainty which needs addressing

5. The predictions computed for each of the AQAs for these developments are inconsistent

7. Proposed mitigation for cumulative impact are simply vague suggestions with not reasoning or rationale provided as to their impact of implementation feasibility

8. Current levels for NO₂, PM_{2.5} and PM₁₀ within Newington exceed WHO guidelines for health.

9. The Newington AQMA has exceed NO₂ objectives in the last reliable year

10. the planning applications should be rejected on the grounds of air quality at this time

This shows the likely damage to the health of Newington residents from the cumulative effect of further housing development in the village.

Please see the independent report from the University of Kent Centre for Health Service Studies which examines the air quality reports that form part of each of the four significant planning applications current in the Village and the data available from the air quality monitoring devices in Newington.

Newington Parish Council requests that this response be forwarded to all members of planning committee as well as the customary summary in the officer report.

2.2 REFERENCE NO – 21/505041/OUT		
APPLICATION PROPOSAL		
Outline application for the development of up to 63 dwellings and all necessary supporting infrastructure including internal access roads, footpaths and parking, open space and landscaping, drainage, utilities and service infrastructure works. (Access to Lower Road being sought, all other matters for future consideration)		
ADDRESS Land North Of Lower Road Eastchurch Kent		
RECOMMENDATION – planning permission is Granted subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION		
The proposed development would provide additional housing adjacent to a settlement identified on the settlement strategy as a tier 4 settlement. Due to the Council's lack of 5-year housing supply the tilted balance in accord with the National Planning Policy Framework applies. The proposal benefits are considered, on balance, to outweigh the harm.		
REASON FOR REFERRAL TO COMMITTEE		
Parish Council Objection		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT New Homes and Land AGENT Carter Jones
DECISION DUE DATE 28/02/2023	PUBLICITY EXPIRY DATE 28/10/2021	CASE OFFICER Alex Jelley

1. RELEVANT PLANNING HISTORY

- 1.1. 19/500887/FULL
Erection of 15 dwellings with associated parking and new road access
Approved 24/12/2020

2. EXECUTIVE SUMMARY

- 2.1. Whilst the site is located outside of the defined boundary of Eastchurch 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. Eastchurch is defined as a Rural Local Service Centre by Policy ST3 (Swale settlement strategy) as set out in the Bearing Fruits 2031: The Swale Borough Local Plan 2017. As such it is reasonable for this settlement to provide a tertiary, supportive role in the Council's plans to deliver housing to meet its housing need.
- 2.2. This was recognised in the Council's Strategic Housing Land Availability Assessment (SHLAA), published in 2020 as part of the evidence base for the Local Plan Review. The application site forms part of a larger site, North of Eastchurch (18/063), which has been assessed as 'suitable and deliverable'.
- 2.3. The lack of a five-year housing land supply, and the fact that the Local Plan is out of date carries significant weights in favour of supporting the principle of the development.
- 2.4. The scheme would not conflict with policies DM6 and DM7 of the Local Plan and would not lead to unacceptable highway impacts.
- 2.5. The proposals meet the requirements of Policies ST6, CP4, CP7, DM24 and DM29 of the Local Plan, as well as the National Planning Policy Framework (NPPF), in so far as they have regard to matters of layout, design and character.

- 2.6. The proposals would not cause substantial harm to landscape character and are therefore in accordance with the requirements of Policies ST6, CP4, CP7, DM24 and DM29, as well as the NPPF, in so far as they have regard to matters of landscape visual impact.
- 2.7. As this is an outline application with only access up for consideration at this stage, much of the detail would come forward as part of subsequent reserved matters applications. However, there is enough information provided at this stage to suggest that the scheme could meet the requirements of Policy DM14 of the Local Plan with respect to living conditions.
- 2.8. The proposals are in accordance with the requirements of Policy DM28 of the Local Plan and the NPPF in so far as it has regard to ecology/biodiversity.
- 2.9. The Climate Change Officer has advised that they have no objection but have asked for an Energy Strategy and Sustainability Strategy to be provided as part of any reserved matters applications. These should not be bolt-on documents but should be driving forces in the formation of that detailed application. On this basis, the scheme is in accordance with DM19 of the Local Plan and the NPPF with respect to sustainability and climate change.
- 2.10. There would be no harm to the significance of any of the identified above-ground heritage assets. The submitted documentation suggests that a Written Scheme of Investigation condition should be attached to any approval. This is considered to be a reasonable approach to take, and necessary to ensure that any unexpected finds are dealt with accordingly. As such, I consider that the statutory test in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the associated policies of the NPPF and local plans are passed.
- 2.11. The scheme is capable of meeting the requirements of Policies DM21 and CP7 of the Local Plan with respect to flood risk and drainage, subject to the conditions attached to this approval.
- 2.12. The Council's Agricultural Land consultants were asked for comment on the scheme, and have responded to say that in this instance "*under both National and Local Policy I consider that the loss of agricultural land, in this case, is not a factor which potentially weighs against the scheme in principle*". It is therefore considered that the proposals meet the requirements of Policy DM31 of the Local Plan and the NPPF with respect to agricultural land classification.
- 2.13. The scheme includes a comprehensive planning obligation package including health and school places funding, and contributions towards other identified community facilities and services.
- 2.14. Overall, the application is considered to accord with the Local Plan 2017 and the NPPF subject to the imposition of suitable safeguarding conditions and the successful completion of a Section 106 agreement.

3. DESCRIPTION OF SITE

- 3.1. The site is located on the north-western edge of Eastchurch. It comprises of agricultural land and extends to approximately 7.3ha. It is bound to the north and west by agricultural land, to the east by Dicksons Playing Field, and to the south by residential properties on High Street and Lower Road.

- 3.2. The site is an irregular shape with the main body of the site a semi-circle shape wrapping around the settlement edge. There is a northern extension, perpendicular to the main body of the site, which is required to accommodate the SuDS proposals.
- 3.3. The site is largely devoid of vegetation, with only a small group of trees on the southern edge, adjacent to Lower Road. A public footpath (ZS23) enters the site next to this tree group and crosses the site in a north-westerly direction. The route of this footpath on the ground differs slightly to that shown on the definitive public rights of way map.
- 3.4. The site is on the edge of a residential area, with a footpath network accessible on Lower Road and via Dicksons Playing Field that connects to key local services and facilities in the village. The centre of Eastchurch is within 500m to the east. Adjoining the southern boundary of the site is land that is allocated in the adopted Local Plan for residential development, and which has full planning permission for a development of 15 dwellings, Application 19/500887/FULL.

4. PROPOSAL

- 4.1. This is an outline planning application where the development provides a total of 7.3ha hectares for residential development, providing up to 63 new build dwellings. Matters relating to the appearance, landscaping, layout, and scale are reserved for future consideration, and therefore only the specific access onto Lower Road is considered at this stage. In accordance with Policy DM8 of the Local Plan, the scheme would not deliver any affordable housing on site. The requirement for affordable housing on the Isle of Sheppey is 0%.
- 4.2. The proposals include a balanced mix of dwellings, including flats and detached, semi-detached and terraced houses. These would range from one to four bedrooms in size, with the precise mix determined through subsequent reserved matters applications.
- 4.3. The development density will be approximately 8.6 dwellings per hectare which is very low. However, this is largely as a result of the abundance of open space, landscaping, drainage attenuation, agricultural land and hedgerow planting that is proposed as part of the scheme. When these elements are removed, the density on the developable portion of the site rises to a much more reasonable 22.5 dph – considering the edge of settlement location.

5. PLANNING CONSTRAINTS

- None

6. POLICY AND OTHER CONSIDERATIONS

Bearing Fruits 2031: The Swale Borough Local Plan 2017 Policies

- ST 1** Delivering sustainable development in Swale
- ST 2** Development targets for jobs and homes 2014- 2031
- ST 3** The Swale settlement strategy
- ST 6** The Isle of Sheppey area strategy
- CP 2** Promoting sustainable transport
- CP 3** Delivering a wide choice of high quality homes
- CP 4** Requiring good design
- CP 5** Health and wellbeing
- CP 6** Community facilities and services to meet local needs
- CP 8** Conserving and enhancing the historic environment
- DM 6** Managing transport demand and impact

- DM 7** Vehicle parking
- DM 8** Affordable Housing
- DM 14** General development criteria
- DM 17** Open space sports and recreation provision
- DM 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)

7. LOCAL REPRESENTATIONS

- 7.1. Letters were sent to neighbouring occupiers, a notice was published in the press and a site notice placed in the vicinity. 55 letters of objection received from local residents:
- Loss of orchards/agricultural land
 - Highways impact
 - Lack of services
 - Environmental impact
 - Air quality
 - Residential amenity
 - Design/character
 - Density
 - Pollution
- 7.2. Eastchurch Parish Council Object to the proposal on the following grounds: -
- Design/Character
 - Lack of infrastructure and services
 - Loss of agricultural land
 - Landscape impact
 - Overdevelopment of Eastchurch
 - Biodiversity impact
 - Highways impact
- 7.3. The Swale Footpath Group raised no objection to the scheme.

8. CONSULTATION RESPONSES

KCC Highways: No objection subject to conditions and Section 106 contributions as follows:

1. *Submission of a Construction Management Plan before the commencement of any development on site to include 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
2. Provision and permanent retention of the vehicle parking spaces and/or garages in accordance with details to be submitted to and approved by the Local Planning Authority prior to the use of the site commencing.
 3. Provision of Electric Vehicle charging points in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to the use of the site commencing. All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>
 4. Provision and permanent retention of secure, covered cycle parking facilities prior to the use of the site commencing in accordance with details to be submitted to and approved by the Local Planning Authority.
 5. Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.
 6. Completion of the off-site highway works to provide the footway, bus layby, bus shelter and carriageway realignment as shown on drawings 205448-PD01 Rev C and 205448-A02 Rev G and the off-site footway works approved by planning consent 18/500887/FULL prior to the use of the site commencing, provided that have been constructed. In the event that the footway approved by planning consent 18/500887/FULL has not been constructed, the alternative off-site highway works to provide the footway, bus layby, bus shelter and carriageway realignment as shown on drawings 205448-PD02 and 205448-A05 shall be completed prior to the use of the site commencing.
 7. The proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and constructed in accordance with details to be submitted to and approved by the Local Planning Authority.
 8. Completion of the following works between a dwelling and the adopted highway prior to first occupation of the dwelling:
 - (a) Footways and/or footpaths, with the exception of the wearing course;
 - (b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).
 9. Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 1.2metres above carriageway level within the splays, prior to the use of the site commencing.

Southern Water: No objection.

KCC Flood and Drainage: No objection subject to conditions as follows:

1. *No development shall take place until the details required by Condition 1 (assumed to be reserved matters condition for layout) shall demonstrate that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout.*
Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and that they are incorporated into the proposed layouts.
2. *Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment dated August 2021 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of at a rate equivalent of 10.6l/s 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.

3. *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.

KCC Ecology: No objection subject conditions as follows:

1. *With the first reserve matters application, a lighting design plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not*

disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.

2. *With the first reserve matters application, a precautionary mitigation strategy will be produced in alignment with the recommendations in sections 4.20 to 4.26 within the Preliminary Ecological Appraisal (The Ecology Partnership July 2020). The measures will be carried out in accordance with the approved strategy thereafter.*
3. *Within six months of works commencing, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the local planning authority. This will include a native species-only landscaping scheme and measures in section 4.28 of the Preliminary Ecological Appraisal (The Ecology Partnership July 2020). The approved details will be implemented and thereafter retained.*

Drainage Board: No objection.

NHS: No objection subject to financial contributions towards the refurbishment, reconfiguration and/or extension of Sheerness Health Centre and/or Dr S J Witts Practice and/or St Georges Medical Centre and/or The Om Medical Centre and/or Sheppey Healthy Living Centre and/or towards new practice premises development in the area being secured by Section 106 contributions required to mitigate impact.

KCC Developer Contributions: No objection subject to Section 106 contributions towards Special Education Needs, secondary education, community learning, the youth service, the library service, social care and waste being secured to mitigate impact.

Natural England: No objection subject to Section 106 contribution required to mitigate impact of the proposal in adherence to the North Kent Strategic Access Management and Monitoring Strategy

KCC Public Rights of Way: No objection subject to a Section 106 contribution of £6900 towards the provision of a 6.5m kit bridge to provide access from the proposed development to the northern section of PF ZS23.

Historic England: No objection.

Climate Change Officer: No objection subject to conditions requiring the submission of a Sustainability Strategy and Energy Strategy.

Environment Agency: No objection.

Kent Police: No objection a condition relating to Secured By Design principles.

SBC Conservation: No objection. Request further information to be provided at REM stage re Orchards and connectivity to adjacent open space.

9. APPRAISAL

- 9.1. The main matters for consideration as part of this application are:
 - Principle
 - Loss of Agricultural Land
 - Landscape
 - Design and Character
 - Living Conditions
 - Highways

- Biodiversity
- Water, Flooding and Drainage
- Sustainable Design and Construction
- Contamination
- Heritage
- Archaeology
- Developer Contributions

Principle

- 9.2. 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.
- 9.3. 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 gains these should be sought jointly and simultaneously through the planning system.
- 9.4. 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,
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 ST5 of the Local Plan because the site falls outside of defined confines of Newington (or indeed any of the other settlements covered by ST 1) and as such the proposal conflicts with the Local Plan 2017.
- 9.6. When considering the Bearing Fruits Local Plan, the Inspector imposed a five-year period for reviewing the Plan, to ensure that it remained up to date and commensurate with national policy. That time period has passed, and the plan is therefore ‘out of date’.
- 9.7. Furthermore, the Council can only demonstrate a 4.83-year supply of housing and as such cannot demonstrate a 5 year supply.
- 9.8. 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, and the ‘Tilted Balance’ should apply to decision making.
- 9.9. 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.
- 9.10. 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.

- 9.11. If the adverse impacts of the proposal significantly and demonstrable outweigh the benefits, then planning permission should still be refused.
- 9.12. 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.
- 9.13. Whilst the site is located outside of the defined boundary of Eastchurch and therefore is 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.
- 9.14. Eastchurch is defined as a Rural Local Service Centre by Policy ST3 (Swale settlement strategy). As such it is reasonable for this settlement to provide a tertiary, supportive role in the Council's plans to deliver housing to meet its housing need.
- 9.15. This was recognised in the Council's Strategic Housing Land Availability Assessment (SHLAA), published in 2020 as part of the evidence base for the Local Plan Review. The application site forms part of a larger site, North of Eastchurch (18/063), which has been assessed as 'suitable and deliverable'.
- 9.16. The suitability conclusions are as follows:

"The site is not subject to any high-level constraints and is adjacent to an existing built-up area boundary. Much of the site is within a reasonable walking distance of the services and facilities offered in Eastchurch village. These include a convenience store, a GP's surgery and a primary school. There is also a public house, a church and a village hall. There are employment opportunities in the area, with the prisons to the south, holiday parks to the northeast and the services and facilities within the village itself. Many essential day to day services can be met in the area, although the full range requires travel into Minster, Sheerness and beyond. There is no train station here but a fairly regular bus service towards the town, with connections available beyond. As such, the site is considered to be in a sustainable location which is suitable for residential development."

- 9.17. The considerations above are a reasonable account of what is available within the immediate vicinity and thus apply to this application as much as they did to the wider site under consideration at that time.
- 9.18. The lack of a five-year housing land supply, and the fact that the Local Plan is out of date carries significant weights in favour of supporting the principle of the development, subject to other relevant planning considerations discussed in detail below.

Loss of Agricultural Land

- 9.19. Policy DM 31 of the Local Plan seeks to protect the most high-grade agricultural land from development pressures. It states the following:

"Development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries."

Development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:

- 1. The site is allocated for development by the Local Plan; or*
- 2. There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and*

3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land.”

- 9.20. Paragraph 174 (b) under the NPPF 2021) states that *“Planning policies and decisions should contribute to and enhance the natural and local environment by: recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land and of trees and woodland”.*
- 9.21. The application includes an Agricultural Land Classification report by RPS, which provides an assessment of the effects of the proposals on agricultural land quality and soil resources.
- 9.22. It concludes that the site is mostly made up of lower quality Subgrade 3b land (58%), with a smaller area of Subgrade 3a land (42%). It points out that some of the higher-grade land would be retained as an orchard.
- 9.23. Natural England guidance for consultation with Local Authorities identifies the threshold of such land that would be considered significant:

“In accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (schedule 4(y)), the LPA must consult Natural England on:

- *The loss of not less than 20ha of grades 1, 2 or 3a agricultural land which is for the time being used for agricultural purposes;*
- *The loss of less than 20ha of grades 1, 2 or 3a agricultural land which is for the time being used for agricultural purposes, in circumstances in which the development is likely to lead to a further loss agricultural land amounting cumulatively to 20ha or more.”*

- 9.24. As the scheme would involve the loss of less than 20ha of Grade 3a (as the only portion of the land on site referred to in this test), it is considered that the proposals would meet this requirement.
- 9.25. With respect to the test identified in Policy DM31 of the Local Plan, as set out above, there is a great deal of similarly graded, or indeed higher graded, land within the surrounding area. The loss of this site would therefore have no discernible impact on the availability of good quality agricultural land.
- 9.26. The Council’s agricultural land consultants were asked for comment on the scheme and have responded to say that in this instance *“under both National and Local Policy I consider that the loss of agricultural land, in this case, is not a factor which potentially weighs against the scheme in principle”.*

It is therefore considered that the proposals meet the requirements of Policy DM31 of the Local Plan and the NPPF with respect to agricultural land classification.

Landscape

- 9.27. Policy CP4 of the Local Plan requires all developments to have a suitable impact on their surroundings, promoting and reinforces local distinctiveness and protecting local landscape characteristics.
- 9.28. Policy ST6 seeks to provide housing in locations where the role and character of the Isle of Sheppey is maintained / enhanced and where the character, appearance and setting of the towns, the surrounding landscape, and heritage assets are protected and enhanced.
- 9.29. Policy CP7 seeks to ensure that development comes forward in a manner that conserves and where possible enhances the Borough’s natural environment. Policy DM24 looks to

restrict development where it would have a negative impact on valued landscapes. Policy DM29 provides protection for existing woodlands, trees and hedges.

- 9.30. The applicant has been submitted a Parameter Plan (showing the broad location of different types of development within the site), an indicative Layout (though this would not form an approved document, it does indicate how the developers see the scheme coming forward), and most importantly a Landscape Visual Appraisal (LVIA) with supporting appendices.
- 9.31. The site is identified as being within National Character Area (“NCA”) 81 – Greater Thames Estuary, and in North Sheppey Local Character Area (“LCA”) with respect to the county level designation, and LCA 16 Minster and Warden Farmlands as per the Swale Landscape Character and Biodiversity Appraisal.
- 9.32. The baseline position is considered to poor, with intrusive land uses, lost hedgerows and trees and a weak ecological network. The above designations suggest that land here should be restored where possible, with the creation of a more cohesive landscape framework that reduces the influence of urban development.
- 9.33. The LVIA notes that the site is not located within any national or local designations. It concludes its review of the baseline by affording the site an overall medium value. The Swale Landscape Sensitivity Assessment (“SLSA”) identifies the site, as part of a wider portion of land, as having a moderate-high sensitivity. The SLSA suggests that any new development should be landscape-led in design and should seek all opportunities for green infrastructure provision so as to improve upon the status quo and mitigate any negative impact.
- 9.34. There is no evidence available, either through consideration of the adopted landscape related SPDs or the character guides referred to above, or from my visit to the site, that would suggest that the medium value is incorrect or that the moderate-high sensitivity referenced above does not apply to this site.
- 9.35. The proposals would involve the loss of open arable fields, and as such a degree of loss of the open character of the setting of Eastchurch. As set out within the LVIA, however, this has already been eroded through the loss of field boundaries and hedgerows from the late 20th Century. The proposals would, conversely provide additional hedgerow and tree planting in a manner that would recreate those lost field boundaries and buffer the site from longer views.
- 9.36. The LVIA suggests that the site has a low-medium susceptibility to change. This leads to a consideration that the sensitivity of this site (rather than the wider portion of land referred to at Paragraph 9.41 above) to change is low-medium. Given the nature of the proposed development, the magnitude of change is initially considered to be medium-high adverse. Landscaping impacts at year 1 reduce this to moderate adverse. The 15-year assessment is neutral impact, once the various mitigation measures have matured.
- 9.37. In terms of visual impact, the LVIA considers a host of viewpoints and sets out the following:
- *“People using Lower Road (Vps A & B) – initially moderate adverse reducing to minor adverse.*
 - *People using Footpath 23 (Vps C & D) – initially overall effect will be major/moderate adverse reducing to overall effect of moderate adverse.*
 - *People using Footpath 23 (Vp E) – initially minor adverse changing to moderate beneficial.*

- *People visiting Dickson's Field (Vp F) - initially moderate adverse reducing to minor adverse in summer months.*
- *People using Footpath 24 (Vp G) neutral initially and long term.*
- *People using Footpath 24 (Vps H & I) - initially moderate adverse reducing to neutral/beneficial.*
- *People using Plough Lane (Vps J & K) - initially moderate/minor adverse reducing to neutral/beneficial."*

- 9.38. The above views are identified in Appendix 2 of the LVIA. It is considered that they represent a thorough analysis of the key points from which the development would be appraised.
- 9.39. Having considered the submission and visited the site, it is considered that the LVIA thoroughly considers the baseline position, the impact of the proposed development on landscape character, and the impact of the proposals from a visual amenity perspective. The mitigation measures proposed will inevitably take some time to mature but would lead to an appropriate form of development that does not have a material negative impact on either the landscape character of the surrounding area or the visual amenity of those residing in it or visiting it for recreation.
- 9.40. It will be essential to ensure that the Reserved Matters application(s) come forward with a suitable level of information in relation to design, layout, and landscaping – but control over the development will be retained by the Council in this respect.
- 9.41. As such it is considered that the proposals would not cause substantial harm to landscape character and are therefore in accordance with the requirements of Policies ST6, CP4, CP7, DM24 and DM29, as well as the NPPF, in so far as they have regard to matters of landscape visual impact.

Design and layout

- 9.42. Policy CP4 of the Local Plan requires all developments to achieve high quality design, appropriate to its surroundings, that creates attractive places, promotes, and reinforces local distinctiveness and strengthens sense of places.
- 9.43. Policy ST6 seeks to provide housing in locations where the role and character of the Isle of Sheppey is maintained / enhanced and where the character, appearance and setting of the towns heritage assets are protected and enhanced.
- 9.44. Policy CP7 seeks to ensure that development comes forward in a manner that conserves and where possible enhances the Borough's natural environment. Policy DM24 looks to restrict development where it would have a negative impact on valued landscapes. Policy DM29 provides protection for existing woodlands, trees and hedges.
- 9.45. The Government at paragraph 127 (a) – (d) of the revised NPPF attach great importance to the design of built development. It goes on to advise that planning decisions should ensure that development will function well and add quality of the overall area; not just for the short term but over the life time of a development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the built environment and landscape setting, while not discouraging appropriate innovation and change; establish or maintain a strong sense of place, using the arrangements of streets, space, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

- 9.46. The National Design Guide illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools.
- 9.47. Though matters relating to layout and design and reserved matters and would be dealt with at any subsequent reserved matters application, the overall impact of the proposals on the surrounding area is a material consideration at this stage of the process, as it speaks to the heart of the proposals.
- 9.48. As such, the application has been submitted with several relevant documents associated with the layout and visual impact of the scheme. These include a Parameter Plan (showing the broad location of different types of development within the site), a Planning Statement, a Design and Access Statement, an indicative Layout (though this would not form an approved document, it does indicate how the developers see the scheme coming forward).
- 9.49. Having reviewed the submitted detail, it is considered that the Parameter Plan would form a sensible basis for future Reserved Matters application, appropriately sub-dividing the site into specific land uses. The residential components would be focussed in a broad semi-circle to the centre of the south along the southern boundary. The existing Recreation Ground to the east would be augmented with additional landscaping and a community orchard/garden.
- 9.50. New woodland to the west would soften the impact of the development when approaching Eastchurch from that direction. New hedgerow planting to the northeast would have a similar impact in that direction.
- 9.51. The topography of the site is such that the surface water would drainage to the north, hence the position of the attenuation pond within the northwest projection.
- 9.52. Kent Police have responded without objection but have asked for a Secured By Design condition to ensure that the Reserved Matters application is accompanied by sufficient detail. This is considered to be a reasonable request, and one that will ensure the scheme meets the policy requirements in this regard.
- 9.53. Finally, it is proposed that the residential parcels would have a max ridge height of 8.5m, limiting them to 2 storey properties. Given the local vernacular and landscape considerations (set out below), this seems to be an appropriate constraint for this site.
- 9.54. Further detail on layout, design, materials and so on will necessarily be provided as part of future Reserved Matters applications. This ensures the retention of control on such matters lies with the Council, and officer's can exert their judgement when those applications are submitted.
- 9.55. As a result, it is considered that the proposals meet the requirements of Policies ST6, CP4, CP7, DM24 and DM29, as well as the NPPF, in so far as they have regard to matters of layout, design and character.

Living conditions

- 9.56. Policy DM14 of the local plan states (inter-alia) that developments should cause no significant harm to amenity or other sensitive uses.
- 9.57. Though the concerns of the Parish Council and neighbours are noted, it is considered that the indicative layout provided suggests that a scheme could be brought forward on the site,

for the number of dwellings proposed, that would not cause material harm with respect to overlooking, loss of sunlight, overbearance, air quality or other amenity considerations.

- 9.58. Moreover, the indicative layout demonstrates that the quantum of development proposed within the red line area would not lead to a cramped form of development that could not provide sufficient outdoor amenity space for each of the dwellings proposed.
- 9.59. As this is an Outline application with only access up for consideration at this stage, much of the detail would come forward as part of subsequent reserved matters applications. However, there is enough information provided at this stage to suggest that the scheme could meet the requirements of Policy DM14 of the Local Plan.

Highways

- 9.60. This application is an Outline proposal, though the applicants have asked for the access from Lower Road to be considered at this stage. As such they have provided detailed information in relation to the form the access will take from Lower Road, as well as a detailed assessment of the proposals on the wider highways network.
- 9.61. The application as submitted included a Transport Assessment, a Proposes Site Access Plan, and commentary within the Design and Access Statement and Planning Statement relating to highways matters. Transport Assessment Addendums and Proposed Site Access Rev C Plans were submitted more recently in response to the initial round of consultation – particularly that from KCC Highways and National Highways.
- 9.62. KCC Highways responded to the scheme by raising no objection, whilst requiring the imposition of several conditions and S.106 contributions, as set out above.
- 9.63. They noted the following:

The submitted documents consisted of drawings 205448-PD02 “Proposed Site Access General Arrangement & Visibility”, 205448-PD01 Rev C “Proposed Site Access General Arrangement & Visibility” and a Transport Assessment Addendum dated June 2022. Within the TA addendum, further drawings 205448-A02 Rev G “Proposed Site Access Simple Junction General Arrangement & Visibility” and 205448-A05 “Proposed Site Access General Arrangement & Visibility Without Neighbouring Development” were also included.

These documents have been submitted to address the comments made in my last response, and I note that the amended site access drawings 205448-PD01 Rev C and 205448-A02 Rev G do now feature the proposed footway and are consistent with how this had been shown on related drawings. I consider that these amendments clarify the footway provision and has removed any ambiguity.

Drawings 205448-PD02 and 205448-A05 are new drawings that indicate the access arrangements as per revised drawings 205448-PD01 Rev C and 205448-A02 Rev G, but include the additional footway and crossing of High Street. These drawings were requested in my previous response in order to show the additional footway linkages this development would be expected to provide in the event that the adjacent development consented under planning reference 18/500887/FULL has not already provided the connection to the existing footway network. I am therefore satisfied that the full extent of off-site highway works required to provide adequate pedestrian routes in either scenario are specified and can be secured by planning conditions.

The additional junction modelling that I had requested has been provided in the TA addendum, and this demonstrates that the Lower Road/Eastchurch Road junction would continue to operate within capacity in 2026 with the development. Whilst the 2031 modelling

does show that the Eastchurch Road arm will have just exceeded the accepted RFC value of 0.85 during the AM peak hour without the development, the impact of the development would be minimal and only increase the queue by 0.6 vehicles to a total of 6.8 vehicles. It is considered that the traffic impact would be acceptable and I concur that no perceptible difference in network performance would be noted.

Consequently, I confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no further objection on behalf of the local highway authority.”

- 9.64. The following condition required by KCC Highways could either form a Grampian Condition or a S.106 obligation, as it relates to off site works. In this instance, given the necessity of a S.106 Agreement for other matters, it is considered that it is most appropriately dealt with via legal agreement.

“Completion of the off-site highway works to provide the footway, bus layby, bus shelter and carriageway realignment as shown on drawings 205448-PD01 Rev C and 205448-A02 Rev G and the off-site footway works approved by planning consent 18/500887/FULL prior to the use of the site commencing, provided that have been constructed. In the event that the footway approved by planning consent 18/500887/FULL has not been constructed, the alternative off-site highway works to provide the footway, bus layby, bus shelter and carriageway realignment as shown on drawings 205448-PD02 and 205448-A05 shall be completed prior to the use of the site commencing.”

- 9.65. Based on the above, I am content that the scheme would not conflict with policies DM6 and DM7 of the Local Plan and would not lead to unacceptable highway impacts.

Biodiversity

- 9.66. Paragraph 40 of the Natural Environment and Rural Communities Act, under the heading of ‘duty to conserve biodiversity’ states “every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.”
- 9.67. The Local Plan at Policy DM28 seeks for proposals to conserve, enhance, and extend biodiversity and provide for net gains in biodiversity where possible.
- 9.68. The NPPF at chapter 15 ‘conserving and enhancing the natural environment’ sets out government views on minimising the impacts on biodiversity, providing net gains where possible and contributing to halt the overall decline in biodiversity.
- 9.69. The application includes a Preliminary Ecological Appraisal which sets out the baseline position and recommends some mitigation measures designed to ensure that the scheme can result in a net gain in biodiversity across the site.
- 9.70. As the scheme progresses towards Reserved Matters submission it will be essential to ensure that the required details are provided, and that the biodiversity net gain percentage is calculated in line with policy requirements.
- 9.71. The County Ecologist has responded positively to the submission, raising no objection to it. They have asked for three conditions to be attached to any approval, as set out above. These are considered to meet the tests and will ensure that the scheme contributes positively to the Council’s aims in relation to ecological conservation and enhancement.

Appropriate Assessment

- 9.72. The development includes proposals for new dwellings within the zone of influence (6km) of The Medway Estuary and Marshes Special Protection Area (SPA) and wetland of International Importance under the Ramsar Convention (Ramsar Site). As a result, the Council has a responsibility to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.
- 9.73. A decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be considered when carrying out a screening assessment to decide whether a full 'appropriate assessment' is needed under the Habitats Directive. Therefore, we advise that due to the need for the application to contribute to the North Kent SAMMS, there is a need for an appropriate assessment to be carried out as part of this application.
- 9.74. Natural England have responded to the scheme with a standard no objection response, requesting SAMMS contributions. As such it is considered that the proposals are in accordance with the requirements of Policy DM28 of the Local Plan and the NPPF in so far as it has regard to ecology/biodiversity.

Flood Risk and Drainage

- 9.75. The Local Plan as Policy DM21 sets out a raft of criteria aimed at preventing or reducing flood risk.
- 9.76. The revised NPPF at chapter 14 sets out government views on how the planning system should take into account the risks caused by flooding. The planning practice guidance under the chapter titled 'flood risk and climate change' gives detailed advice on how planning can take account of the risks associated with flooding in the application process.
- 9.77. Local Plan Policy CP7 requires new development to be supported by the timely delivery of green infrastructure, including SuDS.
- 9.78. The NPPF at paragraph eight and elsewhere identifies the provision of infrastructure as part of the economic role as one of the three dimensions of sustainable development.
- 9.79. The PPG under the chapter entitled 'water supply, wastewater and water quality' at paragraph 20 provides advice on the considerations that apply in areas with inadequate wastewater infrastructure. The PPG explains that if there are concerns regarding the capacity of wastewater infrastructure, applicants will be asked to provide information as to how wastewater will be dealt with. The PPG goes on to provide advice on several scenarios regarding the preference to connect to the public sewerage system and the acceptable alternatives.
- 9.80. KCC Flood and Drainage have raised no objection to the scheme, subject to the imposition of conditions. The same is true of Southern Water and the Drainage Board. As such it is considered that the proposed development, with appropriate conditions, would have a suitable approach to flood water, surface water drainage and foul water.
- 9.81. The imposition of the required conditions ensures that the scheme is capable of meeting the requirements of Policies DM21 and CP7 of the Local Plan with respect to flood risk and drainage.

Sustainable Design and Construction

- 9.82. Climate change – Policy DM19 requires developments to address climate change and reduce carbon emissions in new developments. The policy does not include a threshold for

such reductions. However, the Council's Ecological and Climate Change Emergency Action Plan sets out that new housing developments should achieve a minimum 50% reduction in emissions when compared to target rates in the current Building Regulations.

- 9.83. The application is an outline application with only access to be determined at this stage. As such the applicant advises that energy efficiency and other sustainability issues will be dealt with at the detailed design and reserved matters stage. Nonetheless, in the Design and Access Statement the applicant states that the "best practice sustainability will be embraced" - though no details of what best practice is.
- 9.84. The Climate Change Officer has advised that they have no objection but have asked for an Energy Strategy and Sustainability Strategy to be provided as part of any Reserved Matters applications. These should not be bolt-on documents but should be driving forces in the formation of that detailed application.
- 9.85. On this basis the scheme is in accordance with DM19 of the Local Plan and the NPPF with respect to sustainability and climate change.

Heritage

- 9.86. The Council is required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
- 9.87. Policy 32 of the Local Plan sets out the policy background for the protection, preservation, and enhancement of listed buildings. Policy 34 does likewise for archaeological sites.
- 9.88. Chapter 16 sets out government advice on conserving and enhancing the historic environment. Paragraph 195 sets out its guidance where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset. Paragraph 196 advises on development proposals which will lead to less than substantial harm to the significance of a designated heritage asset. The paragraph goes on to say that the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Paragraph 201 informs that not all elements of a conservation area will necessarily contribute to its significance.
- 9.89. The application includes a Historic Environment Appraisal and an Archaeological Desk-Based Assessment. The first of which identifies the following nearby heritage assets:

"The main historic environment consideration engaged by this application is the effect of the proposals on the setting, and significance, of the Grade I listed parish church of All Saints within the centre of the village. Associated with the church to the west is the Grade II listed 19th Century Rectory set behind a densely vegetated boundary to High Street. 2, Warden Road (Grade II) lies to the north of the churchyard. To the south of the crossroads is a Grade II listed memorial to 'The Home of Aviation'. Beyond Eastchurch on rising ground to the northeast is Shurland Hall, a remnant of a much larger 16th Century complex and comprising a scheduled monument, Grade II* listed building and Grade II listed garden walls. It is located at some distance from the Site, c.750m at its closest point."*

- 9.90. It concludes that there is no harm to the significance of any of the identified heritage assets. This view is shared by the Council's Conservation Officer, who has raised no objection to the scheme.

Archaeology

- 9.91. The Archaeological Desk-Based Assessment states the following:

“The site of land at Eastchurch, Isle of Sheppey, Kent, has been reviewed for its below ground archaeological potential.

In terms of relevant, nationally significant designated heritage assets, no World Heritage Sites, Scheduled Monuments, Historic Wrecks or Historic Battlefields lie within the study site or its immediate vicinity.

The study site is considered likely to have had an archaeological potential for the later prehistoric, Roman, Anglo-Saxon and Medieval periods.

The study site has remained undeveloped open land throughout its documented history. Proposals comprise low density residential development including attenuation and planting.

In view of the perceived archaeological potential, and in line with relevant planning policy and guidance, it is anticipated that the planning authorities archaeological planning advisors will require further archaeological mitigation measures in association with redevelopment impacts. The available information indicates that in accordance with the National Planning Policy Framework (NPPF), and proportionate to the impact of development, these works can follow the granting of planning consent, secured by an appropriate archaeological planning condition.”

- 9.92. Historic England, having been consulted on the application, have raised no objection to the scheme.
- 9.93. The submitted documentation suggests that a Written Scheme of Investigation condition should be attached to any approval. This is a reasonable approach to take, and necessary to ensure that any unexpected finds are dealt with accordingly.
- 9.94. As such I consider that the statutory test in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the associated policies of the NPPF and local plans are passed.

Developer contributions

- 9.95. The following contributions have been identified as reasonable and necessary to mitigate the impacts of the development on the surrounding area / infrastructure –

Requirement	Value	Towards
SAMMS payment	£250.39 per dwelling	North Kent Strategic Access Management and Monitoring Strategy
Public Rights of Way	£6900	kit bridge to provide access to Public Footpath ZS23 and the wider public rights of way network
Special Education Needs	£1051.82 per house and £262.96 per flat	Towards additional SEN provision within Swale
Secondary Education	£1135.00	Towards Highsted & Borden Grammar School expansions
Community Learning	£1,034.46	Contributions requested towards additional resources and classes at Sheerness Adult Education Centre
Youth Service	£4,126.50	Contributions requested towards additional Youth Service resources locally

Library Bookstock	£3,493.35	Contributions requested towards additional services, resources, and stock at Minster Library and the local mobile Library service
Social Care	£9,253.44	Specialist care accommodation, Assistive technology systems, adapting Community facilities, sensory facilities and Changing places in Swale District
Waste	£11,571.21	Towards additional capacity at the HWRC & WTS in Sittingbourne
NHS	£54,432	Towards refurbishment, reconfiguration and/or extension of Sheerness Health Centre and/or Dr Primary Care Team Kent House 81 Station Road Ashford Kent TN23 1PP Email: kmccg.pcestates@nhs.net Page 2 of 3 S J Witts Practice and/or St Georges Medical Centre and/or The Om Medical Centre and/or Sheppey Healthy Living Centre and/or towards new practice premises development in the area
Highways	Completion of the off-site highway works to provide the footway, bus layby, bus shelter and carriageway realignment as shown on drawings 205448-PD01 Rev C and 205448-A02 Rev G and the off-site footway works approved by planning consent 18/500887/FULL prior to the use of the site commencing, provided that have been constructed. In the event that the footway approved by planning consent 18/500887/FULL has not been constructed, the alternative off-site highway works to provide the footway, bus layby, bus shelter and carriageway realignment as shown on drawings 205448-PD02 and 205448-A05 shall be completed prior to the use of the site commencing.	
Refuse Bins	1 x 180ltr green refuse bin @ £46.60 per bin 1 x 240ltr blue recycling bin @ £46.60 per bin 1 x 23ltr black food bin @ £10.80 per bin 1 x 5ltr kitchen caddy @ £5.40 per bin Total cost = £109.40 per dwelling x 63 = £6,892.20	

Table 1 – S.106 Heads of Terms

10. These Heads of Terms have been provided to the applicant and agreed upon.

11. FINAL CONCLUSION AND PLANNING BALANCE

11.1. Whilst the site is located outside of the defined boundary of Eastchurch 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.

11.2. It would boost housing supply providing 63 units towards the Council's 5 Year Housing Land Supply. These factors carry significant weight in favour of the scheme.

- 11.3. It is considered that the proposals would cause substantial harm to landscape character and should therefore be refused.
- 11.4. The S106 Agreement for SAMMS contributions and infrastructure costs will mitigate against the impact of the proposals on key services.
- 11.5. In terms of sustainable development, there would be some clear positive social impacts through the provision of housing and affordable housing, and some positive economic impacts through construction and local spending by future occupants.
- 11.6. Overall, the scheme is considered to be fully policy compliant. As the Borough still has not achieved a 5-year housing land supply when considered against the standard method the 'tilted balance' (NPPF Para 11d footnote 8) applies and the conformity with the development plan weighs further in favour of approval.
- 11.7. The findings of Gladman Developments Ltd v SSHCLG & Corby BC & Uttlesford DC [2021] EWCA Civ 104 were that the test of the NPPF can be encompassed under into the decision-making under s70(2) of the TCPA 1990 and s38(6) of the PCPA 2004 in one all-encompassing stage, as here the scheme is assessed as policy compliant and in accordance with the development plan the scheme is recommended for approval.
- 11.8. If members do not take the view that the scheme is policy compliant due to either the quantum of development and/or part of the scheme being outside the built-up area boundary, then this has two consequences. Firstly, as the 'tilted balance' applies in any event Policy ST2 contains a clause that schemes in compliance with National Policy outside the built-up area boundaries are acceptable. Which means that the excess number outside the built-up area boundary is acceptable. Even so means that policies relating to the supply of housing cannot be considered up to date. This include the Eastchurch settlement boundary so this would trigger a presumption in favour of development under NPPF para 11d as the tilted balance has the effect of disapplying the built-up area boundary.
- 11.9. Whatever interpretation is applied the conclusion is the same; either a presumption in favour of the scheme because it is policy compliant or a presumption on favour of the scheme because it is not but with tilted balance then applying as part of the presumption in favour of development.
- 11.10. The size of the scheme is useful in terms of the 5 Year Housing Land Supply, as the 63 units would likely take no more than 18 months to 2 years to complete – resulting in an almost immediate positive impact on supply. Getting the Borough back above 5 years would be a major achievement; placing it back in control over schemes not complying with the local plan. The ability of this and other schemes on this agenda towards regaining a 5-year housing land supply counts strongly in favour of the scheme in the planning balance. This is additional to the assumptions in bearing Fruits and the current 5YHLS which assumed the plan review and decision on the SNRR would come before delivery of this site.
- 11.11. The scheme is assessed and being in conformity with national policy and the local plan. It is recommended that planning permission be granted for the proposal subject to conditions and the completion of a Section 106 agreement.

12. **RECOMMENDATION**

- 12.1. GRANT subject to the conditions as set out below and the signing of a suitably worded s106 agreement to secure the developer contributions as set out below.

12.2. Delegated authority is also sought to amend condition wording and s106 clauses as may reasonably be required.

12.3. S.106 Heads of Terms

Requirement	Value	Towards
SAMMS payment	£250.39 per dwelling	North Kent Strategic Access Management and Monitoring Strategy
Public Rights of Way	£6900	kit bridge to provide access to Public Footpath ZS23 and the wider public rights of way network
Special Education Needs	£1051.82 per house and £262.96 per flat	Towards additional SEN provision within Swale
Secondary Education	£1135.00	Towards Highsted & Borden Grammar School expansions
Community Learning	£1,034.46	Contributions requested towards additional resources and classes at Sheerness Adult Education Centre
Youth Service	£4,126.50	Contributions requested towards additional Youth Service resources locally
Library Bookstock	£3,493.35	Contributions requested towards additional services, resources, and stock at Minster Library and the local mobile Library service
Social Care	£9,253.44 And All Homes to be Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)	Specialist care accommodation, Assistive technology systems, adapting Community facilities, sensory facilities and Changing places in Swale District
Waste	£11,571.21	Towards additional capacity at the HWRC & WTS in Sittingbourne
NHS	£54,432	Towards refurbishment, reconfiguration and/or extension of Sheerness Health Centre and/or Dr Primary Care Team Kent House 81 Station Road Ashford Kent TN23 1PP Email: kmccg.pcestates@nhs.net Page 2 of 3 S J Witts Practice and/or St Georges Medical Centre and/or The Om Medical Centre and/or Sheppey Healthy Living Centre and/or towards new practice premises development in the area
Highways	Completion of the off-site highway works to provide the footway, bus layby, bus shelter and carriageway realignment as shown on drawings 205448-PD01 Rev C and 205448-A02 Rev G and the off-site footway works approved by planning consent 18/500887/FULL prior to the use of the site commencing, provided that have been constructed. In the event that the	

	footway approved by planning consent 18/500887/FULL has not been constructed, the alternative off-site highway works to provide the footway, bus layby, bus shelter and carriageway realignment as shown on drawings 205448-PD02 and 205448-A05 shall be completed prior to the use of the site commencing.
Refuse Bins	1 x 180ltr green refuse bin @ £46.60 per bin 1 x 240ltr blue recycling bin @ £46.60 per bin 1 x 23ltr black food bin @ £10.80 per bin 1 x 5ltr kitchen caddy @ £5.40 per bin Total cost = £109.40 per dwelling x 63 = £6,892.20

Table 2 – S.106 Heads of Terms

12.4. Conditions**1. Time Limit – Outline Schemes**

The development to which this permission relates must be begun not later than the expiration of five years from the date of the grant of outline planning permission in the cases of phases one and two, or nine years in the case of phases three and four; or two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

2. Time Limit – Reserved Matters

Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years from the granting of planning permission.

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

3. Reserved Matters

- a. Prior to or contemporaneous with the submission of any reserved matters by phase under condition (1) for layout referred to in condition the following shall be submitted to and approved by the local planning authority: finished site levels, proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture
- b. Prior to or contemporaneous with the submission of any reserved matters by phase under condition (1) the following shall be submitted to and approved by the local planning authority: finished site levels: the palette of building materials and elevational designs.
- c. Prior to or contemporaneous with the submission of any reserved matters by phase under condition (1) the following shall be submitted to and approved by the local planning authority: details of both hard and soft landscape works. 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.
- d. Prior to or contemporaneous with the submission of any reserved matters by phase under condition (1) the following shall be submitted to and approved by the local planning authority: Heights above ordnance datum including completion of finished levels.

Reserved matters details of the layout, scale, appearance, and landscaping for the development hereby permitted, shall be submitted to and approved in writing by phase the local planning authority before any development takes place on that phase and the development of that phase shall be carried out as approved.

The submitted reserved matters shall be in accordance with the development parameters approved and listed under condition 4.

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

4. Compliance with Approved Parameter Plans and Design Code

The reserved matters details design shall be in conformity with the design code submitted as part and the application and hereby approved.

The development hereby approved shall be carried out in broad accordance with reserved matters drawings following the parameters as set out in the following approved parameter plans:

- Drwg No. 1600.002 Rev A – Site Location Plan (Received on 21/09/2021)
- Drwg No. 1600.004 Rev B – Parameter Plan (Received on 05/05/2022)
- Drwg No. 205448-PD01 Rev C – Proposed Site Access Plan (Received on 21/07/2022)

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

5. Within Reserved Matters: Biodiversity Lighting Plan

With the first reserve matters application, a lighting design plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.

Reason: To ensure the scheme suitably mitigates against its impact in relation to biodiversity, in accordance with the requirements of Policy DM28 of the Local Plan and the NPPF

6. Within Reserved Matters: Ecological Mitigation Strategy

With the first reserve matters application, a precautionary mitigation strategy will be produced in alignment with the recommendations in sections 4.20 to 4.26 within the Preliminary Ecological Appraisal (The Ecology Partnership July 2020). The measures will be carried out in accordance with the approved strategy thereafter.

Reason: To ensure the scheme suitably mitigates against its impact in relation to biodiversity, in accordance with the requirements of Policy DM28 of the Local Plan and the NPPF

7. Pre-commencement: Surface Water Drainage Baseline

No development shall take place until the details required by Condition 1 (assumed to be reserved matters condition for layout) shall demonstrate that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout.

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

8. Pre-commencement: Surface Water Drainage Scheme

Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment dated August 2021 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of at a rate equivalent of 10.6l/s 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.

9. Pre-commencement: Secured By Design

Prior to the commencement of development a Secured By Design Statement shall have been submitted to and approved in writing by the local planning authority.

There shall be no development other than in accordance with the approved details, which shall be retained on site thereafter.

Reason: To ensure that the application embeds the principles of Secured By Design in accordance with Policy DM14 of the Local Plan and the NPPF.

10. Pre-commencement: Sustainability Strategy

Prior to the commencement of development a Sustainability Strategy shall have been submitted to and approved in writing by the local planning authority.

There shall be no development other than in accordance with the approved details, which shall be retained on site thereafter.

Reason: To ensure that the application delivers the highest levels of sustainability in accordance with Policy DM14 of the Local Plan and the NPPF.

11. Pre-commencement: Renewable Energy Strategy

Prior to the commencement of development a Renewable Energy Strategy shall have been submitted to and approved in writing by the local planning authority.

There shall be no development other than in accordance with the approved details, which shall be retained on site thereafter.

Reason: To ensure that the application explores all viable options for onsite renewable energy provision in accordance with Policy DM14 of the Local Plan and the NPPF.

12. Pre-commencement: Landscape Management and Maintenance

Prior to the commencement of works on any phase, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority

- a. Description and evaluation of features to be managed;
- b. Ecological trends and constraints on site that might influence management;
- c. Aims and objectives of management;
- d. Appropriate management prescriptions for achieving aims and objectives;
- e. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- f. Details of the body or organisation responsible for implementation of the plan;
- g. Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

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, or ten years for the structural planting along the southern and eastern boundaries, 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 interest of biodiversity and visual amenities. This is a pre-commencement condition as these matters go to the heart of the planning consent.

13. Pre-Commencement: Biodiversity Net Gain

Development on any phase shall not commence on until there has been a biodiversity gain plan submitted to and approved by the local planning authority for that phase; to demonstrate how the proposal shall contribute to the development achieving a post development biodiversity value with be a minimum of 10% higher than site predevelopment biodiversity value. The calculation shall be in accordance with biodiversity metric 3.1 and based on the biodiversity net gain calculations submitted to Kent County Council Ecology and the local planning authority on the 26th of October 2022. The post development biodiversity value may include off-site biodiversity gain under the control of the applicant and purchased biodiversity credits. This gain shall thereafter be maintained for a minimum period of 30 years in line with the biodiversity gain plan.

The development shall be carried out in full accordance with the approved biodiversity gain plan.

Any off site credits must demonstrate in the biodiversity gain plan

- That it is on land made available by a site provider with sufficient rights to the land;
- That it will be delivered by a specified person or body considered fit and proper to undertake the enhancement works;
- The land will be suitably managed to meet the required enhancement;
- That Work commenced 30 January 2020 or later;
- That the enhancement will be maintained for at least 30 years after the completion of those works;

- That the credit is measured using the most up to date biodiversity metric against a baseline metric assessment;
- That the credit may be allocated to development in accordance with the terms of the conservation covenant or planning obligation;
- That the credit is available to be allocated to this development;
- That it complies with rules on additionality and stacking including on protected sites;
- That it is in England, and;
- Monitoring and reporting for that site over the 30 year period.

Reason: To meet national and local policy on biodiversity net gain. This is a pre-commencement condition as these matters go to the heart of the planning consent.

14. Pre-Commencement Condition: Land Contamination

The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

- a) site investigation, based on the phase 1 study included in the EIA to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- b) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (a). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- c) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in b. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure the development does create risks to health and safety from contamination.

15. During Construction: Unexpected Land Contamination

If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority.

The closure report shall include details of;

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.

- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To ensure the development does create risks to health and safety from contamination.

16. Pre-commencement: Construction Environment Management Plan

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

- Hours of working and timing of deliveries
- Report to Planning Committee – 25 January 2023 ITEM 2.2
- An indicative programme for carrying out the works Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off-road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway • Routing of construction and delivery vehicles to / from site, including the number of vehicles
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- Provision of wheel washing facilities
- Temporary traffic management / signage
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works

Reason: In the interests of residential amenity, highway safety (on the local and national networks) and amenity. This is a pre-commencement condition as it goes to the heart of this application.

17. Pre-commencement: Construction Logistics Plan

Prior to the commencement of the development, a Construction Logistic Management Plan shall be submitted to and approval in writing by the Local Planning Authority. To include 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 residential amenity, highway safety (on the local and national networks) and amenity. This is a pre-commencement condition as it goes to the heart of this application.

18. Pre-Occupation: SWDS Verification Report

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.

19. Pre-Occupation: Parking

Provision and permanent retention of the vehicle parking spaces and/or garages in accordance with details to be submitted to and approved by the Local Planning Authority prior to the use of the site commencing.

Reason: In the interests of residential amenity, highway safety (on the local and national networks) and amenity.

20. Pre-Occupation: EV Charging

Provision of Electric Vehicle charging points in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to the use of the site commencing. All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:

<https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

Reason: In the interests of sustainability and to ensure the scheme contributes towards a modal shift towards low-carbon vehicles.

21. Pre-Occupation: Cycle Storage

Provision and permanent retention of secure, covered cycle parking facilities prior to the use of the site commencing in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason: In the interest of amenity and to ensure that the scheme contributes towards a modal shift away from private car usage.

22. Pre-Occupation: Access Delivery

Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.

Reason: In the interests of residential amenity, highway safety (on the local and national networks) and amenity.

23. In accordance with: roads, footways, etc

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

There shall be no development other than in accordance with the approved details, which shall be retained thereafter.

Reason: In the interests of residential amenity, highway safety (on the local and national networks) and amenity. This is a pre-commencement condition as it goes to the heart of this application.

24. Pre-Occupation: Highways Works

Prior to the first occupation of any dwellings hereby approved, the following works shall have been completed in accordance with adoptable standards:

- a) Footways and/or footpaths, with the exception of the wearing course;
- b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interests of residential amenity, highway safety (on the local and national networks) and amenity. This is a pre-commencement condition as it goes to the heart of this application.

25. Pre-Occupation: Visibility Splays

Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 1.2metres above carriageway level within the splays, prior to the use of the site commencing, and they shall be retained thereafter.

Reason: In the interests of residential amenity, highway safety (on the local and national networks) and amenity. This is a pre-commencement condition as it goes to the heart of this application.

26. Pre-Occupation: High Speed Broadband

Prior to first occupation of any unit on a phase details by phase shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mbps) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.

Reason: To provide high quality digital infrastructure in new developments as required by paragraph 114 NPPF.

27. Wheelchair Accessible Dwellings

At least 5 of the hereby approved dwellings shall be provided to Part M4(3) standard. The remaining homes should be provided as Part M4(2) standard (accessible and adaptable dwellings).

Reason: To ensure inclusive design.

28. Construction Hours of Working

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.

29. Piling Hours of Working

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.

Reason: In the interests of residential amenity.

12.5. Informatives**i. 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/highwayspermissionsand-technical-guidance> . Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

ii. Public Rights of Way

The applicant will need to apply to divert the path ZR189 through the Town and Country Planning Act 1990, where the existing route will be affected by the development. We advise the applicant to engage directly with KCC PROW for details of this process in order to ensure the diversion and therefore development are completed in a legal and timely manner.

However, the applicant is reminded that the granting of planning consent does not entitle the developer to obstruct PROW and the existing route must be kept open and safe for all users until such time as the Order necessary for its diversion has been confirmed and the new route provided. A temporary closure may be possible; however, this is subject to a suitable alternative route approved by KCC PROW and Access Service in advance. Again, the route should be accommodated within an open green corridor and the route should be carefully designed so that the right of way is safe, secure and attractive to use. KCC PROW and Access Service will need to approve this proposal

- No furniture, fence, barrier or other structure may be erected on or across Public Rights of Way without the express consent of the Highway Authority
- There must be no disturbance of the surface of the Public Rights of Way, or obstruction of its use, either during or following any approved development without the express consent of the Highway Authority.
- No hedging or shrubs should be planted within 1.5 metres of the edge of the Public Rights of Way.
- Please also make sure that the applicant is made aware that any planning consent given confers no consent or right to close or divert any Public Rights of Way at any time without the express permission of the Highway Authority.
- No Traffic Regulation Orders will be granted by KCC for works that will permanently obstruct the route unless a diversion order has been made and confirmed. If the applicant needs to apply for a temporary traffic regulation order whilst works are undertaken, we would need six weeks' notice to process this.

iii. Code of Development Practice

As the development involves demolition and / or construction, I would recommend that the applicant is supplied with the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expect. This can be found at: <https://tunbridgewells.gov.uk/environmental-code-of-development-practice>

iv. Surface Water Disposal

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

- v. Crime Prevention
Please note the advice of the police crime prevention design advisor in the detailed design of the scheme.
- vi. SAMMs
This permission has only been granted after receipt of a financial contribution to the Strategic Access Management and Monitoring Strategy in respect of the nearby Special Protection Area.
- vii. Sewers
The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk in order to progress the required infrastructure.
- viii. Broadband
Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high-speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact broadband@kent.gov.uk
- ix. SUDS
The following points should be noted wherever infiltration drainage (such as soakaways) is proposed at a site:
- Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks. Clean uncontaminated roof water
 - should drain directly to the system entering after any pollution prevention methods.
 - No infiltration system should be sited in or allowed to discharge into made ground, land impacted by contamination or land previously identified as being contaminated. There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of the system and the water table.
 - A series of shallow systems are preferable to systems such as deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater.
 - Where infiltration SuDS are proposed for anything other than clean roof drainage in a Source Protection Zone 1, a hydrogeological risk assessment should be undertaken, to ensure that the system does not pose an unacceptable risk to the source of supply.

Given the impermeable nature of the site we will expect for clarification to be provided as part of the detailed design submission as to how surface water from the 'undeveloped areas' is prevented from entering the positively drained network and exceeding its designed capacity. Any feature capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse' and we would urge the applicant to contact us prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water

conveyance function. Any works that have the potential to affect the watercourse or ditch's ability to convey water will require our formal flood defence consent (including culvert removal, access culverts and outfall structures). Please contact flood@kent.gov.uk for further information.

x. Contaminated Soils

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes: Duty of Care Regulations 1991 Hazardous Waste (England and Wales) Regulations 2005 Environmental Permitting (England and Wales) Regulations 2010 The Waste (England and Wales) Regulations 2011 Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the

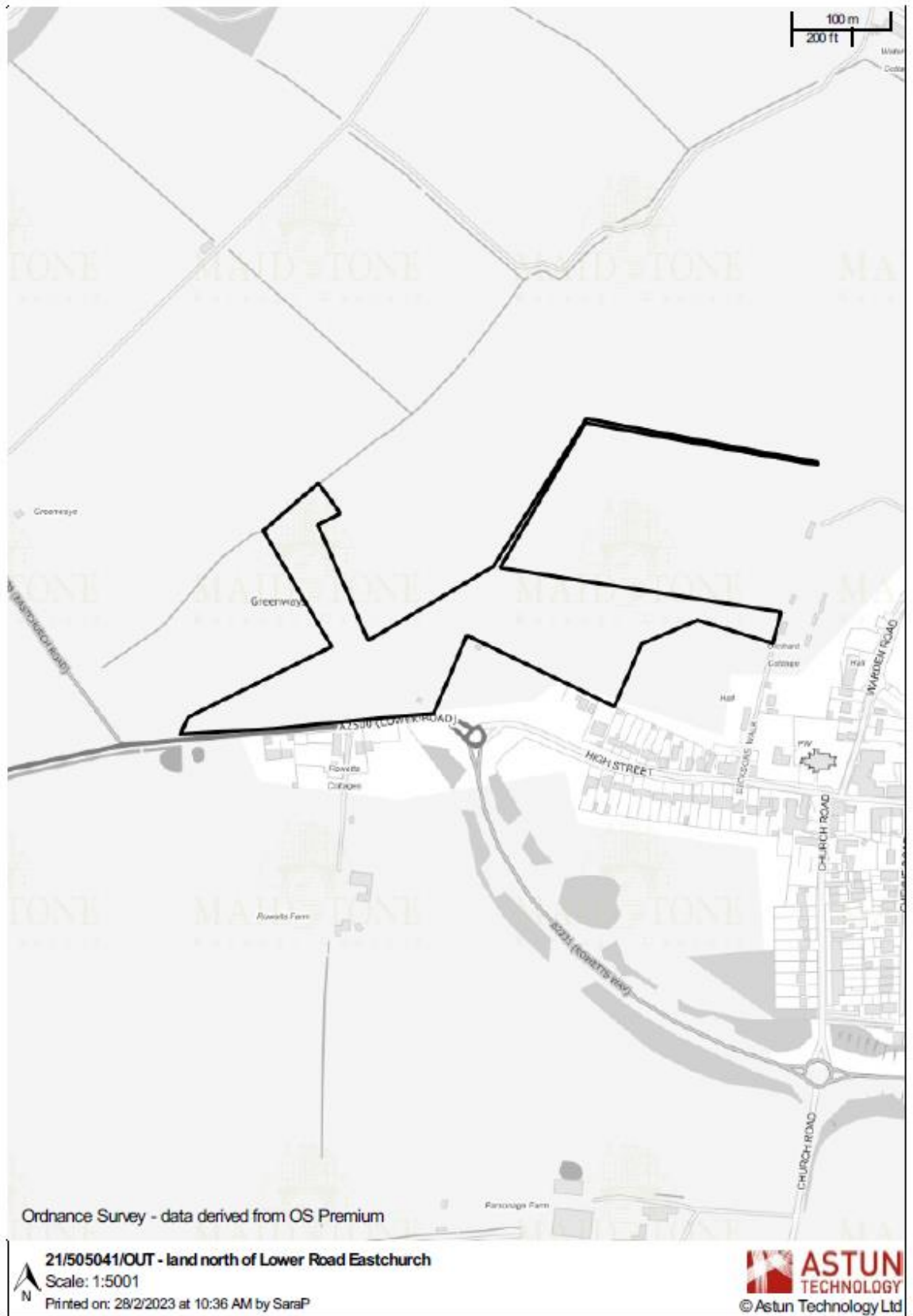
Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at <https://www.gov.uk/government/organisations/environment-agency> for more information.

xi. Breeding Birds

Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation that may provide suitable nesting habitats should be carried out outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests in use or being built. If vegetation needs to be removed during the breeding season, mitigation measures need to be implemented during construction. This includes examination by an experienced ecologist prior to starting work and if any nesting birds are found, development must cease until after the juveniles have fledged. We suggest the following informative is included with any planning consent:

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act.

Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present. Ecological Enhancements In alignment with of the National Planning Policy Framework 2021, the implementation of enhancements for biodiversity should be encouraged. The ecology report recommends suitable enhancements, such as hedgehog gaps in closeboard fencing and provision of bird boxes. We also highlight that any landscaping should consist of native species only.



2.3 REFERENCE NO - 22/505674/FULL		
APPLICATION PROPOSAL Erection of single storey front and rear extensions, first floor side extension, front dormer windows and rear balcony.		
ADDRESS 17 Heron Close Lower Halstow Kent ME9 7EF		
RECOMMENDATION That planning permission is Granted subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development would not harm the streetscene, and following amendments it would not have an undue impact upon neighbouring amenities, and would therefore accord with the development plan.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection and call in from Cllr Clark		
WARD Bobbing, Iwade And Lower Halstow	PARISH/TOWN COUNCIL Lower Halstow	APPLICANT Mr & Mrs Plumbe AGENT APX Architecture Ltd
DECISION DUE DATE 10/03/23	PUBLICITY EXPIRY DATE 21/02/23	CASE OFFICER Megan Harris

Planning History

None relevant

1. DESCRIPTION OF SITE

- 1.1 17 Heron Close is a two storey detached property located within the built up area boundary of Lower Halstow. There is an attached double garage to the side of the property, and single storey extension to the rear, which is used as an annexe. To the front of the garage is a driveway, whilst the remainder of the site frontage is soft landscaped. To the rear of the property is private amenity space.
- 1.2 The property is located on a housing estate surrounded by detached dwellings of a similar scale. To the north of the property is open space.

2. PROPOSAL

- 2.1 This application seeks planning permission for the erection of single storey front and rear extensions, a first floor side extension, front dormer windows and rear balcony.
- 2.2 The front extension will be located to the side of the existing kitchen and will have a footprint of 1.5m x 3m. It will provide a utility room. At the rear, a single storey extension is proposed that will project 2.5m from the rear wall of the dwelling, with a width of 8.5m. It will have a flat roof with a height of 3.1m, which matches the height of the existing single storey extension at the property. This extension will provide a larger living/dining room.
- 2.3 A first floor side extension is proposed above the existing double garage on the eastern side of the property. Following amendments to reduce its scale and overcome amenity concerns, the first floor extension will now have a length of 6.7m. The extension will raise the ridge height of the garage by approximately 1m, and will feature a mansard style

roof. The first floor extension will be accommodated within this roof space. There will be a pitched roof dormer in the front elevation, and two rooflights at the rear, and the extension will provide a bedroom.

- 2.4 A pitched roof dormer is also proposed on the front elevation of the property, which will serve the existing stairwell. A balcony is proposed on the new flat roof rear extension. It will have a footprint of 2m x 4.6m and following amendments to address overlooking concerns, will have 1.8m high privacy screens along both sides of the balcony.
- 2.5 Internal alterations are proposed on the ground and first floor, with the annexe accommodation on the ground floor being converted into an open plan kitchen and family room. The existing kitchen will be converted to a porch and WC. On the first floor, one of the bedrooms will be converted into an en-suite. The existing property currently has five bedrooms when including the annexe, and the proposal will reduce the number of bedrooms to three.

3. PLANNING CONSTRAINTS

- 3.1 None

4. POLICY AND CONSIDERATIONS

Bearing Fruits 2031: The Swale Borough Local Plan 2017

CP4 (Design)

DM7 (Parking)

DM14 (General development criteria)

DM16 (Alterations and extensions)

Supplementary Planning Guidance (SPG)

Designing an Extension: A Guide for Householders
SBC Parking Standards 2020

5. LOCAL REPRESENTATIONS

- 5.1 Letters were sent to neighbouring occupiers and a site notice placed in the vicinity.
- 5.2 Five objections have been received from two neighbouring properties. Their contents are summarised below:
 - Loss of light and overshadowing
 - Overlooking from rear balcony and rear dormer will overlook neighbours gardens, taking away privacy.
 - Amended plans do not prevent overshadowing from the side extension or loss of privacy from the balcony.
 - Party wall surveys have been requested, and the decision should be delayed until the results on these surveys are known.
- 5.3 Cllr Clark has requested the application is called in to planning committee if the application is recommended for approval because he has concerns regarding overshadowing of the side window at No. 17 and overlooking of the gardens of both neighbours from the proposed balcony.

5.4 Lower Halstow Parish Council objected to both the original and amended scheme. Their comments are summarised below:

- Development blocks daylight to neighbours.
- Development results in loss of privacy to neighbouring rear gardens.

6. CONSULTATIONS

6.1 None

7. BACKGROUND PAPERS AND PLANS

7.1 Plans and documents provided as part of application 22/505674/FULL.

8. APPRAISAL

8.1 The main matters for consideration as part of this application are: - the principle of development, impact upon visual amenities and living conditions of neighbours, and highways.

Principle

8.2 Policy ST3 of the Swale Local Plan 2017 supports the principle of development within the built-up area boundary of established towns and villages within the borough.

8.3 The application site is located within the built-up area boundary of Lower Halstow, where the principle of domestic extensions and alterations are acceptable, subject to other material planning considerations.

Character and appearance

8.4 Policy DM16 of the Local Plan supports alterations and extensions to existing buildings where they reflect the scale and massing of the existing building, preserve features of interest and reinforce local distinctiveness.

8.5 Policy CP4 of the Local Plan requires development proposals to be of high-quality design and to be in keeping with the character of the area. It states that particular regard should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any future proposals.

8.6 The property is located in a housing estate, on a large plot. The surrounding area is characterised by large two storey properties, on generous plots, though there are some differences in the design of the surrounding dwellings.

8.7 The side extension and works to the front elevation of the property will be clearly visible in the streetscene. The side extension will be set 1.2m from the boundary. The accommodation will be contained within the roof space. Whilst this involves raising the ridge line of the garage roof, this would be by approximately 1m, and given this limited increase in height I do not consider the development will erode the openness currently experienced to the side of the dwelling. The extension would be subservient in scale to the main dwelling and does not overwhelm the existing form of the property in my view.

- 8.8 Two pitched roof dormers are proposed on the front elevation, which will match the scale and design of the existing dormer on the front elevation. I consider these features will relate well to the appearance of the existing property. The front extension would not project beyond the existing kitchen and garage and would appear as a small continuation of the catslide roof feature on the property.
- 8.9 The rear extension is modest and well designed and of limited visual impact due to its location.
- 8.10 Materials which match the existing dwelling will be used on the development, and I have included a condition below to secure this. This will ensure the proposal blends in with the existing property.
- 8.11 Overall, I am satisfied that the scheme is acceptable in terms of its impact upon the appearance of the existing dwelling and wider streetscene. The small increase in the height of the roof to the garage to accommodate a first floor would not lead to any material loss of gap or openness compared to existing. As such I consider this would accord with policies CP4, DM14 and DM16 of the Local Plan.

Living conditions

- 8.12 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, give rise to an unreasonable loss of privacy, or result in an unreasonable loss of outlook or in excessive noise or odour pollution.
- 8.13 The main properties that will be impacted by the development are those either side of the site. Over the course of the application, the drawings have been amended to address a harmful impact to the living conditions at No. 15 to the east from the side extension and rear balcony. There is a window in the side elevation of No. 15 which serves a dining room and faces towards the application site, at a distance of approx. 2.75m.
- 8.14 The application originally proposed a much larger first floor extension which extended to the same depth as the existing two storey element of the dwelling. Following concerns raised about the effect of this on the neighbour's window, the extension has been reduced in depth by 3 metres. The amended plans show the location of the extension in relation to the neighbour's window, and it no longer directly obscures this window. Taking into account the more limited scale of the extension, its siting in relation to the neighbour's window, the existing outlook from this window which already faces towards the existing dwelling at No 17, and the fact that the extension would not interrupt the provision of sunlight to the neighbours window, I am satisfied that any reduction in light would be relatively limited.
- 8.15 The other works proposed as part of the development, including the front and rear extensions and additional front dormer are set on the western side of the property, a considerable distance from No. 15 and as such I do not consider these elements will result in any unacceptable impacts to amenity at this property. The balcony proposed at the rear is on the west side of the property and was amended to include a 1.8m high privacy screen. I am satisfied this will limit overlooking of No. 15 to an acceptable level. I include a condition below to ensure the privacy screens are provided prior to the first use of the balcony and are maintained in perpetuity.

- 8.16 Turning to consider the impact to No. 19 to the west, the side extension will be located on the eastern side of the property and as such it would not impact upon No. 19. The rear extension will be located approximately 1.2m from the side boundary with No. 19, and will project approximately 3.9m past the rear elevation of this neighbour. The SPG advises that single storey rear extensions close to common boundaries should project a maximum of 3m, but does note that leaving a gap to the boundary may offset this requirement. Taking into account the 1.2m gap to the boundary and 3m gap between the respective dwellings, I do not consider the projection proposed here would cause unacceptable harm to residential amenity.
- 8.17 The proposed balcony will be located on top of the proposed extension, and as such will be in close proximity to the boundary with No. 19. A privacy screen is also proposed along the western boundary of the balcony, which I consider would mitigate any overlooking impacts to an acceptable level. The screen would add to the bulk of the extension although I note that it would pass the 45 degree light test in the BRE Daylight and Sunlight guidance which is commonly used to assess such impacts. Taking this into account, along with the 3m separation distance between the balcony and No. 19, I do not consider any significant harm to amenity will occur.
- 8.18 The front extension is small in scale and taking into account it will be set roughly 6.3m from No. 19, I don't believe it will cause any significant harm to living conditions at this neighbour.
- 8.19 Overall, I am satisfied that the amended plans have addressed concerns raised in relation to the original plans submitted and whilst I note the objections raised by the Parish Council and neighbours, I consider the development will not cause any significant harm to neighbouring amenity for the reasons set out above, and would comply with policy DM14 of the Local Plan.

Highways

- 8.20 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with Kent County Council vehicle parking standards, until such time that Swale Borough Council adopts its own parking standards. As Members are aware, Swale has now adopted its own Supplementary Planning Document (SPD) entitled 'Parking Standards'.
- 8.21 The development will reduce the number of bedrooms at the property from five to three, and as such would not create additional demand for parking. In any case, I note that a three bedroom property in this location should provide two to three spaces, as set out in the SBC Parking Standards SPD and there is sufficient space for two vehicles on the front driveway which would accord with the lower end of the parking provision set out in the SPD. I also note that the double garage at the property that can be utilised for parking. As such, I consider the parking provision to be acceptable and note the proposal complies with policy DM7 of the Local Plan.

Other Matters

- 8.22 An objector has referenced the need for party wall surveys to be carried out. This is not a planning matter and as such cannot be taken into account here.

9. CONCLUSION

- 9.1 Following the submission of amended plans which have significantly reduced the bulk of the proposed first floor side extension and provided privacy screens to the balcony, I am

satisfied that the development would not adversely impact the amenity of neighbours. The scheme is well designed in relation to the existing property, and in my view will not harm the character and appearance of the property or wider area. On this basis, I consider that the development would accord with policies CP4, DM14 and DM16 of the Local Plan and I recommend that planning permission is granted.

- 10. 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 approved shall be carried out in accordance with approved drawings: 22_96_04 Rev D, 22_96_05 Rev D, 22_96_06 Rev B, 22_96_07, 22_96_08 Rev D and 22_96_09 Rev B.

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

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

Reason: In the interests of visual amenity.

- (4) The privacy screens shown on drawing no. 22_96_05 Rev D and 22_96_08 Rev D shall be installed prior to the first use of the balcony hereby permitted and shall be maintained in perpetuity.

Reason: In the interests of residential amenity.

The Council's approach to the application

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

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

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

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



This page is intentionally left blank

PLANNING COMMITTEE – 9 MARCH 2023

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – 77 Playstool Road Newington**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

Although the extension was of a depth greater than that recommended in the Council's SPG for house extensions, the Inspector considered that the low eaves and height of the extension were such that it would not harm the living conditions of the attached neighbouring dwelling, and that such lack of harm justified a more flexible approach to the SPG.

- **Item 5.2 – 2 Seaview Villas First Avenue Queenborough**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector agreed with the Council that the large box flat roof dormer was excessively bulky, dominated the roof space in a harmful manner and was unsympathetic and poorly related to the main dwelling, as well as being visually obtrusive in the wider area. The Inspector gave minimal weight to the appellants argument of a permitted development fallback option, as the Council had demonstrated that the allowance for roof extensions on the property had already been exceeded.

As this is retrospective, enforcement action will now be pursued.

- **Item 5.3 – Land At 164 Bull Lane Newington**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

This appeal was against an application for "permission in principle" to erect a dwelling to the north of the above site within the countryside to the south of Newington.

The Inspector agreed with the Council that in the absence of footways and street lighting, the site was not well connected to the village and was unsustainable. Despite the council's concern regarding the impact of new residential development in the

countryside, the Inspector considered that this was not a matter for consideration under the principle of development, but a matter to be considered under a technical details consent if the proposal were otherwise acceptable.

- **Item 5.4 – Cripps Farm Plough Road Minster-on-sea**

APPEAL DISMISSED

COMMITTEE REFUSAL

Observations

The Inspector agreed with the Council that the front boundary wall as constructed had an unacceptable impact upon the rural character and appearance of the area, and that landscaping offered by the appellant would not mitigate this impact.

For information, this was an application reported to committee with a recommendation for refusal.

Enforcement action will now follow against the wall as constructed.

- **Item 5.5 – 12 Keycol Hill Bobbing ME9 8ND**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

A good decision where the Inspector agreed with the Council that creation of a new access on Keycol Hill would be harmful to highways safety, and that clearance of an attractive bank of landscaping to accommodate an access would be harmful to the setting of neighbouring listed buildings as well as the wider streetscene.

- **Item 5.6 – Gilron Bell Farm Lane Minster-on-sea**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

The Inspector concluded that although Gilron had been significantly extended in the past (and well beyond the 60% floorspace increase specified in the Council's SPG for house extensions in rural areas), the proposed dormer windows were subordinate to the roof and the proposed rear extensions would not extend beyond an existing rear addition to the property and would not add significant bulk, mass or scale and would not be detrimental to the rural area.

- **Item 5.7 – 37 Holly Blue Drive Iwade**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

The Council's main concern was that the two storey side extension proposed would be less than 10 metres from a neighbouring property that was sited at a 90 degree angle to the appeal site, and that the extension would be overbearing to the occupants of this property. The Council normally applies a minimum 11 metre distance between a flank-to-rear elevation relationship.

The Inspector disagreed and considered the change in outlook to be limited and that the development would not appear oppressive or obtrusive to the neighbouring property.

- **Item 5.8 – 76-78 West Street Sittingbourne**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

This appeal related to the imposition of a planning condition restricting the opening hours of a new takeaway unit on the edge of the town centre. The appellant sought to increase opening hours from 11pm to 12am on Fridays and Saturdays. However the Inspector agreed with the Council that this would be likely to be harmful to the living conditions of occupiers of neighbouring properties and dismissed the appeal.

- **Item 5.9 – Car Park Storage R/o Unit 2-4 Stickfast Farm Bobbing**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

This appeal was made against an application to vary two conditions at a vehicle storage, sales and MOT facility, both of which had first been imposed by an Inspector on a previous appeal decision. One related to the height of vehicles stored on the site and the other related to opening hours.

The Council refused the application to allow larger vehicles to be stored on the basis that the site circumstances had not changed since the previous appeal had been determined, and that the appellant had not undertaken the landscaping as required under this previous decision. Disappointingly, the Inspector considered otherwise and has allowed a variation of this condition despite the site characteristics being essentially the same as when the previous Inspector first imposed the condition.

The Inspector agreed with the Council that the additional traffic and activity on a Sunday would have a harmful impact on the living conditions of neighbours.

Although the appeal is recorded as being allowed, in practice the Inspector agreed with the Council in part by refusing to vary the opening hours condition.

- **Item 5.10 – Land at Brielle Way, West End House, Sheerness**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

This related specifically to a condition imposed on an application for advertisement consent. The advert in question is digital sign. Following consultation during the application process, National Highways sought a condition restricting the consent to a temporary five year period, in order that impacts on highways safety and the strategic road network could be re-assessed at this point. The Inspector took the view that as no evidence had been produced to demonstrate why the sign would be likely to cause harmful impacts, such a condition was not necessary and the appeal to remove the condition was allowed.

- **Item 5.11 – 20 London Road Faversham**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

A good decision where the Inspector agreed with the Council that the creation of a vehicular access on to London Road, involving the demolition of the boundary wall, with the front garden area being converted to hard paving to accommodate a vehicle turntable would give rise to harm to the character and appearance of the conservation area. This decision was consistent with that taken by both the Council and the Inspector in respect of a very similar proposal at the adjoining property.

- **Item 5.12 – Elmhurst Caravan Park Second Avenue Eastchurch**

COSTS AWARDED TO THE COUNCIL

APPEAL AGAINST NON-DETERMINATION

APPEAL WITHDRAWN

Observations

The Inspector agreed with the Council that the appellant had acted unreasonably in withdrawing the appeal at a late stage in the process, just before the date of the Hearing, and that the Council has incurred wasted expenses in defending the appeal to date. There was a change in ownership of the appeal site and the Inspector considered that the new owner's wish to appoint their own planning agent was a matter of choice and not a sound reason for withdrawing the appeal.

A full award of costs was made in favour of the Council.



The Planning Inspectorate

Appeal Decision

Site visit made on 19 January 2023

by **Michael Evans BA MA MPhil DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 February 2023

Appeal Ref: APP/V2255/D/22/3304011

77 Playstool Road, Newington ME9 7NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Michael James against the decision of Swale Borough Council.
 - The application Ref 22/500887/FULL, dated 20 February 2022, was refused by notice dated 19 May 2022.
 - The development proposed is the "erection of a conservatory (retrospective)".
-

Preliminary matter

1. On the application form the conservatory is indicated to be retrospective. However, this term is not an act of development and I have excluded it from the description in my decision below. Despite the development having already taken place I must consider this appeal strictly on its own planning merits.

Decision

2. The appeal is allowed and planning permission is granted for the erection of a conservatory, at 77 Playstool Road, Newington ME9 7NL, in accordance with the terms of the application, Ref 22/500887/FULL, dated 20 February 2022 and the plans Ref: 97/22/02/1 Revision PO.

Main issue

3. The main issue in this appeal is the effect on the living conditions of the occupiers of the attached dwelling at 79 Playstool Road, with particular regard to outlook, overshadowing and daylight.

Reasons

4. The appeal concerns a semi-detached dwelling with a single storey below eaves level. The Council's Supplementary Planning Guidance (SPG), Designing an Extension, A Guide for Householders, is referred to in the reason for refusal. This indicates that single storey rear extensions should have a maximum projection of 3m to the rear when close to the boundary between properties.
5. The conservatory has been built abutting the boundary with the attached dwelling, while also projecting 3.8m beyond the flush rear elevations of both properties. It is adjacent to the patio and a window that serves a living room at the neighbouring property.

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

Appeal Decision APP/V2255/D/22/3304011

6. I acknowledge that the conservatory is directly south of the attached property. However, sunshine would still be received to some extent over the top of it, especially at times of the year when the sun is higher in the sky. This is confirmed by the photograph from the neighbouring occupier, which shows that a significant amount of sunshine still reaches the lounge window despite the proximity of the adjacent development and its position to the south. It is also the case that sunlight would still reach a significant part of the patio, which is relatively wide.
7. In any event, the single storey addition is flat roofed and I saw at my site visit that the top is only at about eaves level, so that its height and bulk are particularly modest. In consequence, this prevents any unacceptable reduction in outlook or daylight and there has also been no unacceptable overshadowing caused by the development. In all the above circumstances, it is concluded that the living conditions of the occupiers of the attached dwelling have not been harmed.
8. The conservatory is in conflict with the SPG as it exceeds the maximum depth by 0.8m. Nevertheless, given the lack of any harmful impact, this relatively modest extra distance does not merit rejecting the appeal and in this instance the Council's SPG should not be rigidly applied. This is especially so as the guidance concerning such extensions does not take into account their height.
9. The aims of Policies DM 14 and DM 16 of Bearing Fruits 2031: The Swale Borough Local Plan July 2017, include protecting residential amenity and causing no significant harm to it, with which there would be compliance. Another part of Policy DM 14 intends that development accords with adopted SPG. Nevertheless, Policy DM 16 specifically concerns alterations and extensions, rather than all development proposals, so that it is of more direct relevance to this appeal. Moreover, there is no conflict with any part of this policy. In these circumstances, I conclude that there is compliance with the development plan as a whole.
10. The neighbour refers to the guttering at his property being extended and the use of a soakaway but these are matters for the respective parties. Despite this matter being raised by the third party, I have no reason to doubt the accuracy of the submitted plans and note that the Council has raised no objections in this respect.
11. Taking account of all other matters raised and given the absence of harm, it is determined that the appeal succeeds. The Council has not suggested any conditions and none are needed in this case.

M Evans

INSPECTOR



Appeal Decision

Site visit made on 19 January 2023

by **Michael Evans BA MA MPhil DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Appeal Ref: APP/V2255/D/22/3304403

2 Sea View Villas, First Avenue, Queenborough ME11 5JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jamie Batt, against the decision of Swale Borough Council.
 - The application Ref 22/501973/FULL, dated 19 April 2022, was refused by notice dated 13 July 2022.
 - The development proposed is described on the application form as "Planning application to correct as built rear elevations to those passed on planning application 19/506006/SUB".
-

Decision

1. The appeal is dismissed.

Preliminary matter

2. The matter in dispute in this appeal concerns a rear dormer extension. Permission was granted for such development but that constructed differed from the approved scheme. Despite the development having been built and the Appellant's belief that this was permitted development, I must consider the appeal strictly on its own planning merits.

Main issue

3. The main issue in this appeal is the effect on the character and appearance of the host dwelling and locality.

Reasons

4. The appeal concerns a semi-detached dwelling with two storeys below the eaves. The Council's Supplementary Planning Guidance (SPG), Designing an Extension, A Guide for Householders, indicates that dormer extensions should be in proportion with the roof and either square or have a vertical emphasis. They should also be no deeper than half the depth of the roof slope. These are sound design principles which should be afforded some weight in this appeal.
5. The flat-topped rear dormer addition only has a fairly minimal gap to the eaves below while it spans virtually the full length of the main roof, which has been extended to the side. Despite being set down from the ridge it clearly has a depth greater than half that of the roof slope. As a consequence, it is an excessively bulky and elongated feature with an undue horizontal emphasis. Rather than being in proportion, it unacceptably dominates the rear roof slope.

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

Appeal Decision APP/V2255/D/22/3304403

Due to these factors, it is also unsympathetic and poorly related to the host dwelling.

6. Moreover, this detrimental visual impact is readily apparent from the public open space to the rear due to the property being directly opposite and in fairly close proximity. The addition is a particularly unusual feature seen from here as the vast majority of dwellings in First Avenue visible from the open space do not have roof extensions at the back. Although the dwelling attached to that at the appeal site has a roof addition to the rear, this is particularly modest in size and scale and also has a mono-pitched roof. In this context, the excessive bulk and scale of the roof extension has unbalanced the pair of dwellings. As a consequence of these factors, the dormer addition is an unduly prominent and visually obtrusive feature.
7. For the above reasons, I conclude that the development has harmed the character and appearance of the host dwelling and locality. It therefore conflicts with Policies CP 4, DM 14 and DM 16 of Bearing Fruits 2031: The Swale Borough Local Plan July 2017, which seek to secure new development of an appropriate scale and design, as well as with the SPG.
8. The Council indicates that on the basis of calculations it has made the dormer addition could not be built under permitted development. This is because with the enlargement of the original roof from the two-storey side extension the allowance for roof extensions has been exceeded. The Appellant suggests that if removed then built separately from the rest of the overall development the dormer would be permitted development. Unlike the Council no explanation has been offered for this position or any volume calculations referred to. Moreover, the specific claim of the Council has not been disputed and I find this evidence significantly more convincing.
9. In any event, the potential fall-back scheme would be the same as the built addition. Therefore, allowing this appeal would offer no obvious benefit such as preventing a more harmful development from being implemented that could be considered to positively weigh in favour of the proposal. Due to all the above factors, I can attach no more than fairly minimal weight to this matter.
10. A neighbour is concerned that removing the addition would result in disturbance to residents from matters such as noise and parking. However, I cannot require its removal in this decision. In any event, activity arising from this would be for a finite period and not be a sound reason to allow this appeal.
11. The Appellant indicates that the addition is beneficial to the use of the upper floor area. However, the improved accommodation has been achieved at the unacceptable expense of the quality of the built environment. In the above circumstances there are no other considerations that would justify accepting such a harmful development and it is determined that the appeal fails. In reaching this decision I have considered representations made by neighbours in support of the application.

M Evans

INSPECTOR



Appeal Decision

Site visit made on 17 January 2023

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 February 2023

Appeal Ref: APP/V2255/W/21/3286759

164 Bull Lane, Newington, Sittingbourne, Kent ME9 7NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Ms K Rowe against the decision of Swale Borough Council.
 - The application Ref 21/501791/PIP, dated 31 March 2021, was refused by notice dated 14 May 2021.
 - The development proposed is erection of a detached two storey sustainable self-build or custom building dwelling with new access onto Bull Lane.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development used in the banner heading above is taken from the decision notice, as this more concisely describes the development proposed.
3. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
4. In line with the PPG, the scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

Accessibility to Services and Facilities

6. The Local Plan (Bearing Fruits 2031: The Swale Borough Local Plan 2017) (the LP) contains a settlement strategy in order to guide the location of

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

Appeal Decision APP/V2255/W/21/3286759

development and services in the Borough, with a focus on the use of previously developed land and within defined built up area boundaries, and on sites allocated by the LP, in order to facilitate sustainable transport and protect the character of the countryside.

7. The appeal site lies outside the built up area boundary of Newington, which lies to the north. Newington is defined by the LP as a Rural Local Service Centre and accommodates a number of services and facilities including a church, school, shops and health care facilities, as well as public transport links to other settlements. As the site lies outside the boundaries of any settlement, it is defined by the LP as the open countryside. Given the presence of other buildings near the appeal site, I do not consider the site to be isolated for the purposes of paragraph 80 of the National Planning Policy Framework (the Framework).
8. This section of Bull Lane has a national speed limit, which reduces to 20mph further to the north when approaching Newington. Together with the fairly straight nature of the road leading north, this allows vehicles to travel at reasonably high speeds on this section of road. This part of Bull Lane does not benefit from footways, which would result in the need for pedestrians to walk in the road. In combination with the absence of street lighting, the road would be unwelcoming to pedestrians and not conducive to a safe or attractive route for pedestrians or cyclists.
9. For these reasons, the appeal site is poor in terms of its accessibility to services and facilities and future occupants are highly likely to rely on the private car to carry out their day to day needs, promoting an inherently unsustainable nature of development. There is a strong likelihood that the proposed development would be disconnected from the local rural communities and a likelihood of future occupants travelling further afield to accommodate their needs. From the evidence, the proposal would not maintain or enhance the vitality of rural communities or support local services, in conflict with paragraph 79 of the Framework.
10. I therefore conclude that the appeal site is not a suitable location for housing and would conflict with the settlement strategy set out in Policy ST3 of the LP, and with policies ST1, ST2, CP2, CP3 and DM14 which, among other things, require development to have regard to that strategy and to achieve convenient routes and facilities for pedestrians and cyclists.

Character and Appearance

11. The proposal would result in the creep of residential development and its associated paraphernalia into the countryside and beyond the established settlement boundary. Despite this, the site lies among other houses set within generous plots. Therefore, the extent of any visual intrusion into the countryside here would depend on the specific characteristics of the proposed development. My considerations must be limited to the matter of the principle of the development and matters relating to the appearance of the development, its scale and siting, would fall to be considered under a technical details consent if the proposal were otherwise acceptable. For this reason, I do not find harm arising from the character, appearance or intrinsic amenity value of the countryside.

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

2

Appeal Decision APP/V2255/W/21/3286759

Other Matters

12. The appeal site is within 6km of the Medway Estuary and Marshes Special Protection Area (SPA), which is a European designated site, protected under the Conservation of Habitats and Species Regulations 2017. The appellant has provided a financial contribution to the Council to mitigate the impacts of the development on the SPA. However, as I am dismissing the appeal on other grounds, in line with paragraph 63(1) of the Regulations, it is not necessary to consider the development within the framework of an Appropriate Assessment. As such, this is not a matter which I need to consider further.
13. I do not have evidence to suggest that the site is within the Isle of Sheppey for the benefit of the LP, and as such I do not find conflict with Policy ST6. As the proposal does not relate to the provision of affordable housing there is no conflict with Policy DM9 of the LP.
14. The appellant refers to a planning permission granted for housing in the countryside within the administrative area of Canterbury City Council¹. However, I do not have detailed evidence relating to the location of that development or how it is comparable to the appeal scheme. Similarly, planning permissions have been reported relating to the change of use of Gwelo Farm Barn to become a community facility. While the characteristics surrounding the access to that site are similar to the appeal scheme, in the absence of details of its circumstances or the reasons it was considered acceptable, it does not provide justification for the appeal scheme.

Planning Balance

15. For the reasons above, the site has been found to be unsuitable for new residential development by reason of its poor accessibility to services and facilities, and would cause harm to the settlement strategy. This harm would be significant and long lasting, and would cause conflict with the Framework. I ascribe significant weight to this harm.
16. The proposal could contribute a new home to the Borough's housing stock and this weighs in favour of the proposal, particularly given the shortfall in the Council's housing land supply. However, given the scale of the proposal, and as it relates to permission in principle rather than the grant of planning permission, this benefit attracts moderate weight.
17. Despite the description of development referring to self build or custom build housing, and the identified shortfall in delivery of plots in this area, there is no mechanism before me to ensure that the development would be provided for this purpose. As such, I do not afford this weight in favour of the proposed development.
18. The proposal has the ability to incorporate high quality design and sustainability credentials in terms of energy efficiency and carbon emissions through incorporating measures including renewable energy sources. It could also incorporate a scheme of landscaping and biodiversity enhancements. However, details of these attributes are not before me at this stage and would fall to be considered under a technical details consent. As such I am unable to ascribe these benefits more than little weight.

¹ Canterbury City Council reference CA/19/01977

Appeal Decision APP/V2255/W/21/3286759

19. While the appellant would be willing to provide an additional housing plot between 164 Bull Lane and Gwelo Farm Barn, the benefit of an additional unit would not outweigh the harm identified given the poor suitability of the site for housing. A number of dilapidated outbuildings have previously been removed from the site, however, their removal does not form part of the proposal and their earlier removal does not weigh in favour of the proposed development.
20. The Council accept that it does not have a 5 year land supply for housing, and has a shortfall of 0.4years. As such the provisions of paragraph 11d) of the Framework apply. I am mindful that even if the appeal were allowed, this would not amount to a grant of planning permission, which would rely on the approval of technical details consent. In any event, for the reasons above, the adverse impacts arising from the proposal would significantly and demonstrably outweigh the benefits.

Conclusion

21. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, the appeal is dismissed.

C Shearing

INSPECTOR



Appeal Decision

Site visit made on 19 January 2023

by **Michael Evans BA MA MPhil DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/V2255/D/22/3307399

Cripps Farm, Plough Road, Eastchurch ME12 4JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Buckley, against the decision of Swale Borough Council.
 - The application Ref 19/503511/FULL, dated 6 July 2019, was refused by notice dated 2 August 2022.
 - The development proposed is described on the planning application form as "Retrospective planning for new front wall with driveway access from main highway (Plough Road)".
-

Decision

1. The appeal is dismissed.

Main issue

2. The main issue in this appeal is the effect on the streetscene and the character and appearance of the locality.

Reasons

3. The appeal concerns a dwelling where a wall has been erected along the front and side of the plot, as well as to either side of the drive. Despite the development having already been built, I must nevertheless consider this appeal strictly on its own planning merits. There is a housing estate to the south of Plough Road and facing onto the northern side of the road is a small group of three dwellings, including that at the appeal site. There are also caravan parks in the wider area.
4. The part of Plough Road in which the appeal site is located has no footways or streetlights. The housing to the south is reasonably well screened from the road by vegetation. The Appellant refers to paling fences and hedges at the two adjacent dwellings. In my experience the former tends to be found in rural locations. Even though manicured, the hedges reflect the verdant nature of Plough Road nearby arising from the fairly extensive vegetation both alongside the road and further back.
5. Other means of enclosure include post and rail fencing and post and wire, which have a fairly open character due to the gaps between posts and also tend to be found in rural locations. Including a wooded area to the south-east there are also relatively extensive areas of open and undeveloped countryside that can be seen from the road. This includes that to the front of the caravan

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

Appeal Decision APP/V2255/D/22/3307399

- park to the east of the appeal site. As a result of this the caravans are set back a significant distance from Plough Road.
6. Due to factors such as these, Plough Road in the vicinity of Cripps Farm has a fairly strong and attractive rural character despite the sites referred to by the Appellant. Moreover, the Council points out that in terms of the Local Plan the appeal site is in the countryside.
 7. Given the characteristic frontage vegetation and typically rural boundary treatments nearby, the wall at the appeal site is a particularly unusual and incongruous feature. Moreover, its height is significant, rising from 2 to 3.5 metres from east to west, according to the Council. Apart from the drive, it extends across the frontage of the associated dwelling, so that it is also relatively lengthy. It is therefore a fairly substantial feature, resulting in it appearing overly dominant from the road, while also being unacceptably at odds with the general nature of the boundary treatments found nearby.
 8. I have considered the planting proposed to the front of the wall and behind sleepers. I saw at my site visit that the space available for this is fairly restricted. In any event, the vegetation could die or be removed and it is likely that the wall would be an appreciably longer lasting feature of the locality. Furthermore, the Highways consultee has advised that the height of the planting should not exceed 1.05 metres in order to ensure adequate visibility for drivers moving onto the road from the new driveway.
 9. Because of this the planting would be significantly lower than the wall, while also having relatively limited depth available for it. In consequence, it would not provide any meaningful screening or appropriately mitigate the impact of the wall. Despite the proposed landscaping the wall would still be a visually obtrusive feature that detracts from and fails to harmonise with the countryside setting.
 10. When approaching from the west the wall is not seen until it has almost been reached and to the other side it can be seen from a modestly further back distance. Nevertheless, it is readily visible directly in front for its whole length. From here the adverse visual impact on the streetscene is readily appreciated. In consequence, the lack of longer distance views would not be a sound reason to accept such a prominent roadside development.
 11. Due to the above factors, it is concluded that the streetscene and the character and appearance of the locality have been harmed. Policy DM 11 of Bearing Fruits 2031: The Swale Borough Local Plan (LP) July 2017 is concerned with the extension and replacement of dwellings, neither of which is proposed in this case. However, there is conflict with LP Policies ST 3, CP 4 and DM 14 which are relevant in this instance. Taken together and among other things, these intend that development should reflect the positive characteristics and features of the locality, have an appearance and height that are appropriate to the location, promote and reinforce local distinctiveness and protect the intrinsic beauty of the countryside.
 12. It is suggested that the Council has not strictly applied its policies to protect the rural character of Plough Road. However, I have not been provided with the full details and background to any cases so that there is no meaningful evidence to support this claim. The Appellant refers to the need for a retaining wall. However, there is no technical evidence on this matter from a suitably

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

2

Appeal Decision APP/V2255/D/22/3307399

qualified engineer. In any event, this has been achieved at the unacceptable expense of the quality of the environment in Plough Road.

13. I conclude that none of the above considerations, including all other matters raised, are sufficient to outweigh the harm that has been caused. It is therefore determined that the appeal fails.

M Evans

INSPECTOR

This page is intentionally left blank



Appeal Decision

Site visit made on 19 January 2023

by **Michael Evans BA MA MPhil DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/V2255/D/22/3308882

12 Keycol Hill, Bobbing ME9 8ND

- 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 Colin Knight, against the decision of Swale Borough Council.
 - The application Ref 22/501616/FULL, dated 13 May 2022, was refused by notice dated 21 July 2022.
 - The development proposed is described on the application form as "We would like to have a dropped kerb outside of 12 Keycol Hill with a driveway close to the house".
-

Decision

1. The appeal is dismissed.

Preliminary matter

2. In reaching my decision on this appeal I must comply with the statutory duty set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. This indicates that in considering whether to grant planning permission for development which affects a Listed Building or its setting, the Local Planning Authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting.

Main issues

3. The main issues in this appeal are:
 - The effect on highway safety.
 - The effect on the streetscene and the setting of the adjacent Grade II Listed Buildings at 14 and 16 Keycol Hill.

Reasons

Highway safety

4. The appeal concerns a dwelling that is set back from Keycol Hill. It is proposed to create a dropped kerb onto the carriageway and a driveway into the front garden that would serve three parking spaces. Keycol Hill is classified as the A2 and is a Primary Distributor Route. The road carries a particularly high volume of traffic and at the time of my visit it was free flowing past the site.
5. The Highway Authority (HA) explains that in order to enable vehicles to move in and out of the parking spaces an access aisle 6m wide would be needed. However, the submitted drawing shows an aisle that would only be 3.45m

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

Appeal Decision APP/V2255/D/22/3308882

wide. In consequence, it would be unlikely that drivers could manoeuvre their vehicles into the parking spaces. As a result, they would be likely to have to be parked in a position that required them to be reversed out onto the carriageway. Alternatively, it could give rise to cars being reversed into the driveway.

6. Reversing onto or off the A2 would be an inherently unsafe movement, resulting in an undue risk of collision with other vehicles and of causing accidents by distracting other motorists. This is especially so as it is usually significantly easier for drivers to control a vehicle moving forwards. It is also the case that vision looking out of the front windscreen tends to be considerably better, as there are generally blind spots to the rear which can make it difficult to see other vehicles and people.
7. The Appellant asserts that drivers would be able to obtain the necessary visibility when moving onto the A2. However, as the HA points out, the sightlines on the submitted drawing are incorrectly shown, as they should be taken from a point 2.4m back towards the drive measured from the point where the road meets the pavement. Moreover, the HA indicates that the necessary splays of 2.4m by 43m could not be achieved on land within the application site.
8. In consequence, there could be no certainty that any intervening obstructions to driver visibility, such as trees, could be removed. I also share the HA concern that the drive would inevitably be relatively steep because of the difference in ground levels between the front garden and the highway. There are no cross sections to demonstrate that an appropriate gradient could be achieved. These factors would unacceptably add to the hazards for motorists using the drive, especially when reversing. The adverse effects would occur despite the scheme being acceptable in relation to the distance from the roundabout to the east.
9. For these reasons it is concluded that the proposal would be unacceptably detrimental to highway safety. There would be conflict with Bearing Fruits 2031: The Swale Borough Local Plan (LP) July 2017, Policies DM 6 and DM 14. Taken together and, among other things, these seek to prevent new accesses directly onto Primary Distributor Routes and to achieve safe vehicular access.

Streetscene and Listed Buildings

10. There is an earth bank that rises above the level of the adjacent footway and extends past the appeal site for some distance to either side. This attractive feature is largely tree lined and covered with vegetation. There are sufficient gaps in the trees to the front of the adjacent Listed Buildings that they can fairly easily be seen from the street. Their prominence is enhanced by being noticeably closer to the road than the properties to either side. The visibility of the latter dwellings tends to be significantly limited by frontage vegetation and their set back from the road. As a result, they do not visually compete with the Listed Buildings, allowing the fairly attractive and simple vernacular style of the pair of properties to be readily appreciated.
11. In consequence, the bank is a natural feature that contributes positively to the streetscene and to the setting of the Listed Buildings. It gives a verdant semi-rural character to this part of the locality. The new driveway would be at the eastern side of the site and with the levels changes it is fairly clear that

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

2

Appeal Decision APP/V2255/D/22/3308882

retaining walls would be needed. Regardless of whether any shrubs or trees needed to be removed to facilitate these works, the resultant drive and walls would be particularly unusual features in this part of the street on the northern side.

12. Rather than blending in, they would be unacceptably harsh and visually obtrusive in the context of the bank and be a somewhat suburban and incongruous presence. As well as matters such as the width of the drive, these factors would tend to draw attention to the new access in an especially prominent roadside position. Because of this it would unacceptably compete with the relatively nearby Listed Buildings, as well as detracting from the quality of their attractive roadside environment. This would be the case despite the re-use of excavated earth in raised planters.
13. For these reasons, the proposed development would harm the streetscene and the setting of the adjacent Listed Buildings which would not therefore be preserved. There would be conflict with LP Policies CP 4, DM 14 and DM 32. Taken together and, among other things, these seek to preserve the setting of Listed Buildings, conserve and enhance the natural environment taking account of the desirability of sustaining and enhancing the significance of heritage assets and promoting and reinforcing local distinctiveness.

Public benefits and balancing exercise

14. It is indicated in the National Planning Policy Framework (the Framework) that if the harm in relation to the heritage asset is less than substantial it should be weighed against the public benefits of the proposal, as set out in paragraph 202. Although less than substantial harm would occur in this case great weight should still be attached to it, as the Framework indicates in relation to the conservation of designated heritage assets.
15. Off-road car parking would be provided and the Appellant points out that his own and his son's vehicle have been damaged parking in the road. However, for the reasons given above, these facilities would put those using them and others passing by on the A2 at unacceptable risk of having an accident. In consequence, there would be no overall benefit from such provision. I also saw at my site visit that it is possible to park on Bobbing Hill nearby, where there is a considerably lesser volume of traffic than on the A2.
16. The Appellant explains the difficulties for users of mobility scooters, wheelchairs and the visually impaired in accessing the site. Nevertheless, it is not clear how such issues would be addressed by the Appeal scheme. At most, these matters can therefore only be afforded fairly minimal weight.
17. The Appellant refers to a nearby housing development where it is indicated that a number of trees, as well as shrubs and a bank, were removed and photographs have been provided. Nevertheless, this is not evidence of any benefit of the appeal scheme that could weigh against the harm arising in this case. In any event, I do not have the full background to it, including the Council's reasons for granting permission. This is not therefore a significant consideration in this appeal.
18. In consequence the above matters would be substantially outweighed by the harm to the heritage asset in terms of the Framework. Moreover, with respect to the overall balancing exercise, the harmful impact of the development in

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

3

Appeal Decision APP/V2255/D/22/3308882

relation to highway safety, the streetscene and the setting of the Listed Buildings emphatically outweighs all the other considerations raised which, at most, attract fairly minimal weight.

Conclusion

19. Taking account of all other matters raised, it is therefore determined that the appeal fails. In reaching this decision I have had particular regard to the personal safety of the Appellant and his family. I have also carefully considered the submitted photographs.

M Evans

INSPECTOR



The Planning Inspectorate

Appeal Decision

Site visit made on 19 January 2023

by **Michael Evans BA MA MPhil DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/V2255/D/22/3307168

Gilron, Bell Farm Lane, Minster-on-Sea ME12 4JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Peter Lay against the decision of Swale Borough Council.
 - The application Ref 22/502523/FULL, dated 17 May 2022, was refused by notice dated 18 July 2022.
 - The development proposed is described on the application form as "Single storey lounge and dining room extension with rendered cavity wall good home neva composite screen to be installed on west side of balcony".
-

Preliminary matter

1. The Appellant and the Council have used the same description of development on the appeal form and decision notice. This includes reference to a previous application and use of the term retrospective, neither of which constitutes an act of development. Subject to removing these matters I have used this in my decision below as it provides a more accurate description of the development the subject of this appeal than that given on the application form.

Decision

2. The appeal is allowed and planning permission is granted for the erection of two dormer windows with balconies on rear roof slope, addition of balcony to existing rear dormer window and use of flat roof as roof terrace, with railings. Proposed erection of single storey rear extensions and installation of composite screen to west side of western rear balcony and roof terrace, at Gilron, Bell Farm Lane, Minster-on-Sea ME12 4JA, in accordance with the terms of the application, Ref 22/502523/FULL, dated 17 May 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Layout 220518 Rev 001, Proposed 1st Floor Layout 220519 Rev 001, Proposed Elevations 220520 Rev 001, Existing & Proposed Plot Plans 220521 Rev 001.
 - 2) The materials to be used in the construction of the external surfaces of the single storey rear extensions hereby permitted shall match those used in the existing dwelling.
 - 3) Prior to occupation of the single storey rear extensions hereby permitted privacy screens shall be erected in accordance with the approved drawings and thereafter retained as such.

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

Appeal Decision APP/V2255/D/22/3307168

Main issue

3. The main issue in this appeal is the effect on the character and appearance of the host dwelling and locality.

Reasons

4. The host dwelling is a chalet style property that fronts onto the northern side of Bell Farm Lane. It is situated within the countryside as defined in the Local Plan. Taken together and among other things, Policies CP 4, DM 11 and DM 14 of Bearing Fruits 2031: The Swale Borough Local Plan (LP) July 2017, intend that development should be of a high quality design, be appropriate to the context with regard to matters such as scale, mass and appearance, while taking account of previous extensions and in accord with adopted Supplementary Planning Guidance (SPG).
5. In the SPG, Designing an Extension, A Guide for Householders, it is stated that the Council will not normally approve an extension to a dwelling in a rural area if it results in an increase of more than 60% of the property's original floorspace.
6. The three existing dormer additions at Gilron, two of which are part of the appeal, are at the rear of the dwelling. These are fairly similar in their size, scale and flat roofed form. They are set below the ridge and have sufficient space around them so that they are reasonably subordinate to the host roof. Moreover, they give a sense of cohesion to the roofscape.
7. The proposed privacy screens at the back would have their top significantly below that of the roof above, while not extending beyond the end of the single storey additions. They would be fairly slender features only projecting rearwards and not across the elevation. The metal railings around two sides of the terrace on top of the existing rear addition would be even lower features and have a degree of transparency due to the gaps between the vertical rails, appreciably limiting their visual impact.
8. The proposed single storey rear extensions would be built to the sides of the rear addition and have the same depth and height. They would also be noticeably lower and shallower in depth than the main part of the host property. Due to the above factors, the development the subject of this appeal that has already occurred and that proposed would not add any significant additional bulk, scale or mass to the property.
9. There is significant development in Bell Farm Lane and in the vicinity of it in the form of other dwellings and caravan parks. The houses, which include two storey properties, vary noticeably in matters such as their scale, bulk, footprint and appearance. The enlarged dwelling would be compatible with this existing development and not appear intrusive or incongruous in this context. The intrinsic character of the countryside would not be harmed.
10. The Council indicates that previous enlargement of Gilron has resulted in an increase of 204% over the original floorspace and with that the subject of the appeal this would increase to 241%. However, the 204% increase arises from development that is said to either have planning permission or to be immune from enforcement action. The vast majority of the increase in floor area, as well as additional bulk, scale and mass has therefore already occurred in

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

2

Appeal Decision APP/V2255/D/22/3307168

relation to the original dwelling. Moreover, this would remain in place and not change regardless of the decision made on this appeal.

11. The increase in floor area that has occurred in itself substantially exceeds the guidance in the SPG. The increase in relation to this would, however, be relatively modest and the Council acknowledges that the proposed extensions and dormer additions would in themselves be limited in scale. Furthermore, this development would not extend the footprint of the property any further in any direction. The dwelling would therefore be no more sprawling or significantly bulkier than at present. In any event, neither the depth nor the length of the dwelling would be excessive or unduly out of keeping with the pattern of development in the locality.
12. Taking account of the previous extensions, the increases in floor area put forward by the Council in relation to the original dwelling would not therefore be a sound basis for rejecting the appeal. The increase in scale and bulk arising solely from the development the subject of this appeal would be relatively modest and not give rise to any adverse impact. For the above reasons, it is concluded that the character and appearance of the host dwelling and locality would not be harmed. In the above circumstances and given the lack of harm, the SPG should not be rigidly applied in this instance.
13. There would be compliance with the development plan policies referred to above apart from LP Policy DM 14 and then only with respect to the part concerning being in accord with adopted SPG. In these circumstances, I conclude that the extensions and alterations would nevertheless comply with the development plan as a whole.
14. Taking account of all other matters raised and given the absence of harm, it is determined that the appeal succeeds.
15. A condition concerning the standard time limit for starting development is not needed as part of the overall scheme has already been built. However, I shall impose one specifying the approved plans, which is necessary to provide certainty. A requirement for the screens proposed to the side of the rear terrace and balcony to be installed and kept is necessary to protect the privacy of the adjacent occupiers.

M Evans

INSPECTOR

This page is intentionally left blank



Appeal Decision

Site visit made on 24 January 2023

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/V2255/D/22/3311114

37 Holly Blue Drive, Iwade, Sittingbourne ME9 8WN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Gareth Landen the decision of Swale Borough Council.
 - The application ref 22/504236/FULL, dated 8 August 2022, was refused by notice dated 25 October 2022.
 - The development proposed is for a two storey side extension with pitched roof.
-

Decision

1. The appeal is allowed and planning permission is granted for a two storey side extension with pitched roof at 37 Holly Blue Drive, Iwade, Sittingbourne ME9 9WN in accordance with the terms of the application ref 22/504236/FULL, dated 8 August 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: DC/710, DC/712, DC/713R
 - 3) The external finishes of the development hereby permitted shall match in material and colour those of the existing dwelling.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupants of 1 Chalkhill Close with regard to overbearing impact.

Reasons

3. The appeal site relates to an end terrace, two-storey dwelling with off-street parking to the front. It is located within a row of other properties of differing size, design and detailing. The immediate vicinity to the north is predominantly residential in nature with open grassland to the south.
4. The development would run perpendicular to the rear elevation and garden area of 1 Chalkhill Close, would be set against the backdrop of the existing appeal dwelling and would not project beyond its existing front or rear elevations. To my mind, any changes in the outlook from the openings at both ground and first floor level of No. 1 would be limited. Views in other directions, for example along Holly Blue Drive, would ensure that the appeal scheme would not dominate the outlook from the habitable areas.

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

Appeal Decision APP/V2255/D/22/3311114

5. I am therefore satisfied that the proposal would not have an unduly oppressive or intrusive effect on occupants of the internal rooms of No.1. Even when viewed through the ground floor openings, the proposal is unlikely to result in a sense of confinement or enclosure sufficient to harm the living conditions of occupants. In a relatively high-density area such as this, it would clearly not be unusual to be able to see the built form of other dwellings from living rooms or bedrooms.
6. Whilst the scheme would be more evident from the back garden of No.1, I am aware that the relationship would be similar to that seen between 23 Red Admiral Close and other dwellings in Chalkhill Close, and in this context I find that the development would not be so unneighbourly as to warrant a refusal of planning permission on this ground.
7. I consider that the proposal would not result in material harm to the living conditions of the occupants of 1 Chalkhill Close with regard to overbearing impact. It would accord with Policies DM14 and DM16 of Bearing Fruits 2031: The Swale Borough Local Plan July 2017, which states that proposals should cause no significant harm to amenity.

Conditions

8. I have considered the imposition of conditions in light of advice in Planning Policy Guidance and the National Planning Policy Framework. In addition to the standard implementation condition, the approved plans are listed for certainty. A condition requiring external materials to match those on the existing dwelling would provide for a satisfactory appearance.

Conclusion

9. Based on the foregoing, the appeal is successful.

C Hall

INSPECTOR



Appeal Decision

Site visit made on 31 January 2023

by **E Grierson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/V2255/W/22/3301232
76-78 West Street, Sittingbourne ME10 1AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Millman (Nine Food Group Limited) against the decision of Swale Borough Council.
 - The application Ref 22/501832/FULL, dated 6 April 2022, was approved on 6 June 2022 and planning permission was granted subject to conditions.
 - The development permitted is the change of use of premises from retail shop (formerly use class A1, now use class E(a)) to a hot food takeaway (sui generis use), incorporating installation of mechanical plant.
 - The condition in dispute is No 4 which states that: The premises shall not be open for business outside of the hours of 11:00-23:00 hours Monday to Sunday.
 - The reason given for the condition is: In the interest of residential amenity.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect that amending condition 4 would have on the living conditions of the occupiers of neighbouring dwellings with regard to noise and disturbance.

Reasons

3. Planning permission has been granted on the appeal site for a change of use from a retail shop to a hot food takeaway including the installation of mechanical plant. The appeal seeks to vary condition 4 of this planning permission in order to change the stipulated opening hours of the premises on Fridays and Saturdays from 11:00-23:00 hours to 11:00-00:00 hours. The opening hours on Sundays to Thursdays would remain the same.
4. The appeal site is located at the end of a terraced parade of commercial units on a traffic light controlled junction of a busy A-road, the A2. There is a residential block of flats, known as Wingate Court, on the opposite side of the road to the appeal site and residential properties at first floor level within the host parade of shops, with the closest to the appeal site located at 74 West Street.
5. Due to the presence of a number of other commercial units and the proximity to a busy road and junction, the background noise levels within the vicinity of the appeal site, during the day, are high. However, this is considerably lower between the hours of 23:00 and 00:00 when the majority of the other commercial units are closed and the amount of traffic is reduced. It is noted

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

Appeal Decision APP/V2255/W/22/3301232

that the neighbouring taxi office and car park to the rear may have no planning restrictions with regard to opening hours. However, as the unit is a control room only the number of visiting members of the public would be minimal and there is no evidence to suggest that the number of vehicle movements to and from the car park between 23:00 and 00:00 is particularly high. Therefore, the background noise levels in the area surrounding the appeal site at this time would still be considered low.

6. The acoustic assessment, provided as part of the application, states that the noise generated by the mechanical plant would have a low impact between 23:00 and 00:00. However, the use itself would be likely to create noise and disturbance to the occupiers of nearby residential properties from the comings and goings of customers, people talking and additional vehicle movements. During these late night hours, when background noise levels are lower, any noise created by visitors to the shop would be more noticeable to the neighbouring occupiers. Any noise generated would also be less permissible during these hours, when occupiers are more likely to be sleeping and expect a quieter environment. It is not known how many people would be likely to visit the shop during the extended hours proposed and how much noise this would generate. Nevertheless, due to the relatively quiet surrounding environment at this time and the close proximity of the appeal site to residential properties, any additional noise from the proposed changes to condition 4 would be likely to result in significant disturbance to occupiers of the nearby residential units.
7. Aida Kebab House at 59 West Street operates as a hot food takeaway and has late night opening hours, particularly on Friday and Saturday when it is permitted to open until 02:00. Although located in a different parade of shops, it is relatively close to the appeal site. Whilst this unit does contribute to the existing background noise levels in the surrounding area, particularly after 23:00 when little else is open, the proposed extension in opening times at the appeal site would further add to these noise levels to the detriment of the living conditions of the occupier of neighbouring properties. Therefore, the opening hours at Aida Kebab House would not inherently make the proposal acceptable.
8. It is also noted that the Council's Environmental Health team did not object to the appellant's preferred opening hours within the original application. However, again, this would not make the proposal acceptable in planning terms, where different matters are under consideration.
9. I therefore conclude that amending condition 4 to extend opening hours on Fridays and Saturdays would have a harmful impact on the living conditions of the occupiers of the nearby neighbouring dwellings. It would therefore conflict with Policies DM1 and DM14 of The Swale Borough Local Plan 2017 which seek to ensure that non-retail uses in areas, defined as secondary shopping frontages, do not lead to a loss of residential amenity or cause significant harm to amenity and other sensitive uses.

Conclusion

10. For the reasons given above, I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR

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

2



Appeal Decision

Site visit made on 31 January 2023

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/V2255/W/21/3287424

Car Park Storage Rear of Unit 2-4 Stickfast Farm, Sheppey Way, Bobbing ME9 8QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Terry Stockwell against the decision of Swale Borough Council.
 - The application Ref 21/504232/FULL, dated 30 July 2021, was refused by notice dated 5 October 2021.
 - The application sought planning permission to park and store and sell used cars and light commercial vehicles in connection with MOT service facility without complying with conditions attached to planning permission Ref 18/502358/FULL, dated 27 June 2019.
 - The conditions in dispute are Nos 4 and 9 which state that: The site shall not be open to the public other than between the hours of 7am to 7pm on weekdays and Saturdays, and not at all on Sundays or Bank Holidays and No vehicles shall be stored on the site above a height of 1.5 metres.
-

Decision

1. The appeal is allowed and planning permission is granted to park and store and sell used cars and light commercial vehicles in connection with MOT service facility at Car Park Storage Rear of Unit 2-4 Stickfast Farm, Sheppey Way, Bobbing ME9 8QP in accordance with the terms of the application, Ref 21/504232/FULL, dated 30 July 2021, without compliance with condition number 9 previously imposed on planning permission Ref 18/502358/FULL dated 27 June 2019 and subject to the conditions contained in the schedule to this decision.

Main Issues

2. The main issues are the effect that amending conditions 4 and 9 would have on:
 - the character and appearance of the surrounding area, and
 - the living conditions of the occupiers of neighbouring dwellings with regard to noise and disturbance.

Reasons

Character and Appearance

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

Appeal Decision APP/V2255/W/21/3287424

3. Planning permission¹ has been granted on the appeal site to allow the parking, storage and selling of used cars and light commercial vehicles and the appellants has confirmed that the development is in place. The appeal seeks to vary conditions 4 and 9, relating to the opening hours to the public and the height of vehicles on the site, of the original permission. This is to allow visitors to the site on Sunday and Bank Holidays (excluding Christmas Day, Boxing Day and Easter Sunday) between 10am and 4pm and increase the permitted height of vehicles on the site to 2.1 metres.
4. The original permission allows the parking and storage of vehicles on the appeal site up to a maximum height of 1.5 metres. The appeal site is surrounded by tall palisade fencing and is located adjacent to existing large industrial/agricultural buildings on two sides. Although adjacent to agricultural fields to the rear, the existing fencing and buildings give the appeal site an industrial appearance. The open storage of modern day vehicles on the appeal site may be different from previous agricultural uses. However, the storage of smaller vehicles is already permissible on the site. Furthermore, when set against the existing fence and the large buildings on the surrounding commercial estate, the presence of slightly taller vehicles would be well contained and not appear overly prominent or incongruous in the surroundings.
5. Due to its location to the rear of the estate, there would be limited views of any of the vehicles from the Sheppey Way. Any views from the adjacent public right of way would be partially obscured by the existing fencing of a similar height and the proposed landscaping on the submitted site plan, once implemented. Therefore, I am not persuaded that vehicles up to a height of 2.1 metres would be significantly harmful to the overall character and appearance of the open countryside.
6. Opening the appeal site to the public on Sundays and Bank Holidays would introduce some additional footfall and cars to the appeal site from visiting members of the public. However, this would be for short periods of time only and the impact upon the overall character and appearance of the appeal site would be limited.
7. I therefore conclude that amending conditions 4 and 9 would not have a harmful impact on the character and appearance of the surrounding area. As such I find no conflict with the relevant sections of Policies ST3 and DM14 of the Swale Borough Local Plan (the LP) 2017. The relevant sections of these policies seek to ensure that development contributes to protecting the intrinsic value, landscape setting, and beauty of the countryside, its buildings and the vitality of rural communities, reflecting the positive characteristics and features of the site and locality.

Living Conditions

8. There are a number of neighbouring dwellings in close proximity to the appeal site on the opposite side of Sheppey Way. Although there are several industrial and agricultural uses within the vicinity of the appeal site and these dwellings, the surrounding area is largely rural countryside and its peaceful nature contributes positively to the occupiers living conditions. At present condition 4 prevents the public visiting the appeal site on Sundays and Bank Holidays. This was originally imposed in the interests of the living conditions of the occupiers

¹ 18/502358/FULL (the original permission)

Appeal Decision APP/V2255/W/21/3287424

of nearby properties and the peaceful enjoyment of the countryside and nearby public footpath.

9. Should the condition be amended to allow the public to visit the appeal site on Sundays and Bank Holidays between 10am and 4pm, it would result in comings and goings to the appeal site on these days where there are currently none. The appellant has outlined that there would be a maximum of 5-6 vehicles visiting the site on these additional days. With this figure taken from a survey conducted at another premises in Sittingbourne, where an average of 6 visitors on a Sunday were recorded over a 6 week period. However, whilst this may be the case, visitor numbers would not be restricted and could be significantly greater than this predicted figure.
10. The additional vehicle movements to and from the appeal site on these days, test drives relating to car sales and the additional footfall from visiting members of the public, would generate additional disturbance and noise to the occupiers of the neighbouring dwellings. This would be particularly noticeable on a Sunday and Bank Holidays, where occupiers are more likely to be at home, enjoying the tranquillity of the surrounding countryside and when industrial sites such as this one are generally quieter, as opening restrictions are more commonplace. Although there is currently existing traffic using Sheppey Way on these days, visitors would be required to manoeuvre into and out of the appeal site via the access road. Therefore, these movements entering and exiting the appeal site would be distinguishable from general passers-by and create a greater level of disturbance.
11. It has been brought to my attention that some of the existing premises on the farm and light industrial complex, in which the appeal site is located, have no stipulated operating times, that heavy machinery is used seven days a week on the neighbouring farm site and that the approach road to the appeal site is also used by other companies on Sundays. However, no evidence has been provided to support these claims. Nevertheless, the opening of the appeal site on Sundays and Bank Holidays in isolation, would still create additional disturbances to the occupiers of neighbouring dwellings on days where they currently benefit from some levels respite.
12. The proposed variation to condition 4 would also reduce the opening hours of the appeal site during the week from 7am to 7pm on Weekdays and Saturdays to 8:30am and 6pm on these days. However, this small change in opening hours during the week would not outweigh the resultant harm to the living conditions of the occupiers of neighbouring dwellings identified from extending opening hours on Sundays and Bank Holidays. A condition is also suggested restricting deliveries to the appeal site to weekdays only, as there are no restrictions from deliveries taking place at the weekend at present. However, as the appellant has indicated that deliveries have never taken place on Sundays, it seems unlikely that a condition would be necessary to restrict such activity or that this would make additional opening hours to the public on Sundays and Bank Holidays acceptable.
13. It is noted that the nearby crematorium may operate seven days per week. However, this is located further from neighbouring dwellings and due to the nature of this use would be unlikely to generate significant amounts of noise. There is also a nearby pub which may attract a number of vehicles. However, this type of use would be more commonplace within a residential environment

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

3

Appeal Decision APP/V2255/W/21/3287424

and is vastly different to the permitted use of the appeal site and other surrounding industrial and agricultural uses.

14. As the appeal site is set back from Sheppey Way, changes to the heights of the vehicles parked on the appeal site would not be visible from neighbouring properties. Therefore, amending condition 9 would not have a detrimental impact on the living conditions of the occupiers of neighbouring dwellings
15. However, for the reasons above I conclude that amending condition 4 would have a harmful impact on the living conditions of the occupiers of the neighbouring dwellings and would conflict with the relevant sections of Policies ST3 and DM14 of the LP. The relevant sections of these policies seek to ensure that development contributes to protecting the tranquillity of the countryside and causes no significant harm to amenity and other sensitive uses.

Other Matters

16. Additional opening hours on Sundays and Bank Holidays may provide additional jobs on the appeal site. However, as these additional opening hours would be limited, the benefit of additional jobs would be minimal and would not outweigh the harm found to the living conditions of the occupiers of the neighbouring properties. Furthermore, additional opening hours on the appeal site would not provide any additional car maintenance services for local people, which is undertaken on the neighbouring site also owned by the appellant, and therefore would not be given any weight in this appeal.
17. It is noted that the appellant expected the application to be decided by the Council's planning committee rather than a delegated decision. However, this has no bearing on my consideration of the appeal or the overall outcome.

Conditions

18. I saw during my site visit that the appeal site was being used for the parking and storage of cars. Furthermore, the appellant has confirmed in their final statement that the development is in place. Therefore, I have not imposed the standard time limit condition for the commencement of the development.
19. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I condition remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

20. For the reasons set out above, the appeal is allowed insofar as it relates to the amendment of condition 9. However, as it has been found that amending condition 4 would result in harm to the living conditions of the occupiers of neighbouring dwellings, the proposed changes to this condition have not been implemented.

E Grierson

INSPECTOR

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

4

Appeal Decision APP/V2255/W/21/3287424

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 1477/1 and 1447/2.
2. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:
 - A statement of why lighting is required, the proposed frequency of the use and the hours of illumination
 - A site plan showing the areas to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
 - Details of the number, location and height of the lighting columns or other fixtures.
 - The type, number, mounting height and alignment of the luminaries.
 - The beam angles and upwards waste light ratio for each light.
 - An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.
3. The site shall not be open to the public other than between the hours of 7am to 7pm on weekdays and Saturdays, and not at all on Sundays or Bank Holidays.
4. The site hereby permitted shall be used for the storage and sale of vehicles only and for no other uses 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.
5. No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
7. The landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

Appeal Decision APP/V2255/W/21/3287424

8. No vehicles shall be stored on the site above a height of 2.1 metres

END OF SCHEDULE



Appeal Decision

Site visit made on 17 January 2023

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 February 2023

Appeal Ref: APP/V2255/H/21/3288497

Land at Brielle Way, West End House, Sheerness ME12 1LN

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against conditions imposed when granting express consent.
 - The appeal is made by Clear Channel UK Ltd against the decision of Swale Borough Council.
 - The application Ref 21/504770/ADV, dated 17 August 2021, was approved on 9 November 2021 and express consent was granted for the display of an advertisement subject to conditions.
 - The advertisement permitted is described on the decision notice as 'installation of 1no. 48-sheet (6m x 3m) digital advertising display and removal of 2no. 48-sheet (6m x 3m) advertising displays'.
 - The condition in dispute is no9, which states that:
The signage display hereby approved shall be for a period not exceeding 5 years from the date of this permission and it shall cease and be removed from site at the end of the 5 year period.
 - The reason given for the condition is:
In order that the position may be reviewed at the end of the period stated.
-

Decision

1. The appeal is allowed and the original consent is varied by the removal of condition 9.

Preliminary Matter

2. I observed during my site visit that the development has been carried out.

Background and Main Issue

3. Express consent was granted by the Council on 9 November 2021 for the display of one 48-sheet digital advertising display, with associated removal of two 48-sheet displays. The consent was granted subject to condition 9 which limited the display to a period not exceeding 5 years and requiring it to cease and be removed at the end of that period. The Council report the condition was imposed for reasons relating to public safety, specifically the safety of the adjacent road.
4. The appellant seeks to vary condition 9 and considers the condition is unreasonable and unnecessary in its current form through requiring the removal of the display after this period. The appellant proposes the condition should, instead, state that the express consent shall expire five years from the date of the decision. Comments have also been sought from the main parties regarding the removal of condition 9 in its entirety.

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

Appeal Decision APP/V2255/H/21/3288497

5. The main issue for this appeal is therefore whether condition 9 meets the tests of reasonableness and necessity, and the effects of its variation or removal on public safety.

Main Issue

6. The appeal site lies to the side of the A249 which forms a part of the Strategic Road Network and which carries freight to and from Sheerness Docks to the north. The advertisement faces towards the north-bound traffic and is separated from the carriageway by the railway line. While I appreciate it was only a snapshot in time, I observed during my site visit that this was a busy stretch of road, accommodating a range of vehicles including heavy goods vehicles.
7. Regulation 14(7)(b) of the Regulations stipulates that all consents are automatically given for 5 years, unless specifically stated. The condition in question goes beyond this requirement through requiring the removal of the advertisement after a 5 year period, thereby preventing the ability for the advertisement to continue to be displayed under the deemed consent of Class 14, Schedule 3 of the Regulations. Planning Practice Guidance (PPG) states that where additional conditions are imposed on an express consent, these must be supported by specific and relevant planning reasons, rather than as a matter of general policy.
8. National Highways (formerly Highways England) recognise in its consultation response that the advertisement has the potential to impact on the safe and efficient operation of the A249 Brielle Way and seek an opportunity to assess accident patterns at the end of a five year period. Concerns are also raised in respect of the intention of the advertisement to draw attention of the users of the road, and that the images on the display would change. However, there is little evidence before me to indicate that the proposal would, or would be likely to, cause harm to public safety at the end of the 5 year period. Instead, the concerns relate to a generalised fear of accidents, without substantive evidence as to why this would be the case here relating to this specific site and display, particularly given the other conditions on the consent relating to the images displayed.
9. As such there is not firm evidence to indicate that the advertisement would be likely to be unacceptable at the end of the 5 year period. Even if the advertisement were to continue to be displayed under Class 14, Schedule 3 of the Regulations, it could still subsequently be removed if discontinuance action were taken by the local planning authority should it consider it necessary to remedy a substantial injury to the amenity of the locality or a danger to members of the public.
10. For the reasons given, I find the requirement for the advertisement to be removed at the end of a 5 year period would not meet the tests of reasonableness or necessity, nor has the requirement been supported by specific and relevant planning reasons. In turn, the removal of this requirement from the condition would not cause harm to public safety on the road.
11. With the removal of the latter part of the condition, the condition would simply reflect the Regulations insofar as they state that an express consent shall be subject to the condition that it expires at the end of 5 years, where no other

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

2

Appeal Decision APP/V2255/H/21/3288497

period is specified. Consequently, to vary and reimpose the condition would not be necessary and it should be removed.

Conclusion

12. For the reasons given, the appeal is allowed and the original consent is varied by removing condition 9.

C Shearing

INSPECTOR

This page is intentionally left blank



The Planning Inspectorate

Appeal Decision

Site visit made on 31 January 2023

by **Mr Kim Bennett BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16th February 2023

Appeal Ref: APP/V2255/D/22/3310942

20 London Road, Faversham, Kent ME13 8RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr N Redman against the decision of Swale Borough Council
 - The application 22/503855/FULL, dated 18 August 2022, was refused by notice dated 4 November 2022.
 - The development proposed is the creation of a driveway and dropped kerb, including the repositioning of existing brick front wall and gate.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is whether the development would preserve or enhance the character or appearance of this part of the Faversham Conservation Area.

Reasons

3. The appeal property comprises a traditional late C19 semi-detached house located on the northern side of London Road just to the west of its junction with The Mall. It is one of a group of similarly aged properties between The Mall and Kingsnorth Road and forms part of the extensive Faversham Conservation Area. Currently, the front garden is enclosed by a low brick wall with brick piers at either end, and the proposal is to create a vehicular access on to London Road, involving the demolition of the boundary wall, with the front garden area being converted to hard paving to accommodate a vehicle turntable. The boundary wall would be rebuilt further to the rear, just in front of the main property.
4. A similar proposal to construct an access at the adjoining property, No 18 London Road was refused by the Council and subsequently dismissed on appeal in September 2020 (the 2020 appeal)¹, the Inspector finding there would be unacceptable highway safety issues and harm to the Conservation Area. As referred to above, the current proposal involves the provision of a vehicle turntable which is acceptable to the Highway Authority and the Council and therefore is not an issue in respect of this particular proposal.

¹ Appeal reference APP/V2255/D/19/3244088

Appeal Decision APP/V2255/D/22/3310942

5. Because of its location within the Conservation Area, there is a statutory duty for special attention to be given to the desirability of preserving or enhancing the character or appearance of that area. In that respect, I note that the Conservation Area Appraisal of 2004 identified that the group of houses of which the appeal property forms part, have a similarity in overall form and general appearance and as such read as a single coherent entity. In my view that coherence is also partly due to the predominance of existing front boundary enclosures to the group of buildings. In relation to the appeal property and as my colleague observed in determining the 2020 appeal on the adjacent property, and which I agree with, the presence of front boundary walls to that property and No 20, reinforced the strong symmetry of both buildings and added to the visual coherence of the group of buildings in this part of the road.
6. The removal of the front boundary wall would harm that symmetry and detract from the character and appearance of both the pair of houses, as well as weakening the coherence of the group as a whole. As such I consider there would be harm to both the character and appearance of this part of the Conservation Area. I do not consider that harm could be mitigated by the rebuilding of the boundary wall further to the rear, which in itself would be out of character with the form of enclosures on this part of London Road.
7. I acknowledge that some enclosures have been removed, albeit that the majority remain. The Council advises that most of these are longstanding and have not received planning permission with the exception of Nos 30, approved some time ago, and No 86 which involved the widening of an existing access. Indeed, to prevent further degradation of the front enclosures, the Council has made an Article 4(2) Direction which withdraws the permitted development rights for the removal of front boundary walls and provision of hard surfacing.
8. Of those properties that have removed walls, the open forecourts at both Nos 14 & 16 London Road, in my view illustrates the harm that would be caused, in that in those instances the visual coherence of the group of buildings has been eroded by the opening up of the frontages.
9. The harm to the wider Conservation Area would be small in scale and less than substantial. In such circumstances, the National Planning Policy Framework (the Framework) says that the harm should be weighed against any public benefits arising. In that respect, the appellant argues that the Council gave insufficient consideration to the advantages of having electric vehicle charging on site which is the appellant's intention as part of the proposal. To reinforce the point, the appellant also points to the Government target to cease the sale of petrol/diesel cars in the UK by 2030.
10. Whilst I acknowledge the above, it is often the case that different Government targets and policies can have tension between them in terms of their implementation and in this case, I attach greater weight to the harm arising to the Conservation Area than the potential gains arising for on site electric vehicle charging for one vehicle. Part of my reasoning in this respect is recognition that if the Government target is to be achieved, it will inevitably require substantially more investment in public charging points, in order to provide for the numerous properties that either cannot accommodate any charging points on site, such as terraced houses, or properties such as this where other factors may be overriding.

Appeal Decision APP/V2255/D/22/3310942

11. I acknowledge the inconvenience of having to park away from the property in nearby streets, although I noted that there was plenty of such parking available at the time of my site visit. I also noted that although London Road is very busy at this point, there is scope to park outside to load and unload for short periods when required. Although not ideal it does at least offer a practical solution for such requirements.
12. I note the letters of support from local residents and the absence of an objection from the Town Council, but they do not persuade me to reach a different finding. I am also mindful that were permission to be given in this instance, then the Council would find it very difficult to resist similar proposals, particularly those which involved on site turning facilities, which would negate the objective of the Article 4(2) Direction. In that respect, the opening up of even more frontages through the removal of boundary enclosures would cumulatively cause greater harm to the Conservation Area.
13. For the reasons set out, the proposal would not preserve or enhance the character and appearance of the Conservation Area. It would therefore be in conflict with Policies DM14 and DM33 of Swale Borough Council's Local Plan Bearing Fruits 2031, in that whilst it would respond to opportunities for climate change, it would not reflect the positive characteristics of the site and locality, would not respond positively to the Conservation Appraisal, or retain a means of enclosure which contributes positively to the area's special character or appearance.
14. Accordingly, the appeal should be dismissed.

Kim Bennett

INSPECTOR

This page is intentionally left blank

Local Government Act 1972 - Section 250(5)
Town and Country Planning Act 1990
Appeal by Elmhurst Park Ltd
Site Address: Elmhurst Caravan Park, Second Avenue, Eastchurch, ME12 4ER

YOUR APPLICATION FOR COSTS

1. I am directed by the Secretary of State for Levelling Up, Housing and Communities to decide your application for an award of costs dated 6 December 2022 against Elmhurst Park Ltd (the appellant). The appeal, made on 25 May 2021, was against the failure of Swale Borough Council (the Council) to give notice of its decision within the appropriate period on an application for a lawful use certificate for the use of the land for the siting of static caravans for the purposes of human habitation. The appeal was withdrawn on 3 November 2022 and the Inspectorate confirmed the withdrawal on 10 November 2022.

DECISION

2. The application is allowed in the terms set out below.

Basis for determining the costs application

3. Planning Practice Guidance (PPG) advises that costs may be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. PPG goes on to say that if an appeal is withdrawn without any material change in the planning authority's case, or any other material change in circumstances relevant to the planning issues arising in the appeal, an award of costs may be made against the appellant if the claiming party can show that they have incurred wasted expense as a result.

Conclusions

4. The Inspectorate's 10 September 2021 letter drew the appellant's attention to the costs guidance which could be found on GOV.UK. The letter warned the appellant that it was at risk of costs being awarded against it should the appeal be withdrawn at any time in the proceedings without good reason.
5. The appellant's decision to appoint a new agent as a result of the appeal site changing ownership and Elmhurst Park Ltd being acquired by Royale Parks Ltd was a matter of choice; it was not done following a material change in circumstances relevant to the planning issues arising in the appeal and is a separate matter to the development the subject of the appeal. The appellant must have known that there was always the risk that, in replacing the agent less than 2 weeks before the hearing date, the new agent would not have enough time to prepare for the hearing and the appeal would be withdrawn as a result.
6. The appellant's decision to change its agent so late in the appeal is not a sound reason for withdrawing the appeal and the appellant has not identified any other relevant material change in circumstances that might justify the withdrawal. The withdrawal of the appeal was unreasonable and the Secretary of State therefore concludes that the Council has, in preparing its appeal case, incurred wasted expense. A full award of the Council's costs will therefore be made.

COSTS ORDER

7. Accordingly, the Secretary of State for Levelling Up, Housing and Communities, in exercise of his powers under section 250(5) of the Local Government Act 1972, and sections 174 and 322 of the Town and Country Planning Act 1990 (as amended), and all other powers enabling him in that behalf, HEREBY ORDERS that Elmhurst Park Ltd shall pay to Swale Borough Council its costs of the planning appeal proceedings before the Secretary of State, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concern an appeal described in paragraph 1 of this letter.
8. The Council may now submit details of those costs to Elmhurst Park Ltd with a view to reaching an agreement on the amount.
9. A copy of this letter has been sent to the appellant.

Yours sincerely

Richard Holland

Authorised by the Secretary of State to sign in that behalf