

Agenda

Planning Committee Meeting

Date: Thursday, 9 November 2023

Time 7.00 pm

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

Membership:

Councillors Mike Baldock (Chair), Andy Booth, Simon Clark, Kieran Golding, James Hall, Mike Henderson, James Hunt, Elliott Jayes (Vice-Chair), Peter Marchington, Claire Martin, Charlie Miller, Julien Speed, Paul Stephen, Terry Thompson, Angie Valls, Karen Watson 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 November 2023.

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

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1. Emergency Evacuation Procedure

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

- (a) The fire alarm is a continuous loud ringing. In the event that a fire drill is planned during the meeting, the Chair will advise of this.

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

To approve the [Minutes](#) of the meeting held on 12 October 2023 (Minute Nos. 352 – 355) 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 - 8

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 November 2023.

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|----|--|---------|
| 5. | Deferred Item 1 - 23/500263/REM - Land at Wises Lane, Borden | 9 - 46 |
| 6. | Deferred Item 2 - 23/501017/FULL - Land West of Barton Hill Drive, Minster | 47 - 78 |
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| 8. | 2.2 - 23/503705/ADV - Railway Hotel Preston Street, Faversham | 93 - 98 |

9.	2.3 - 23/502412/FULL - 6 Wallbridge Lane, Upchurch	99 - 108
10.	2.4 - 22/505369/FULL - Former RAF Mast Courtenay Road, Dunkirk	109 - 124
11.	3.1 - 22/505646/OUT - Land at Ufton Court Farm, Tunstall	125 - 148
12.	Part 5 applications	149 - 210
	Decisions by County Council and Secretary of State, reported for information.	

Issued on Wednesday, 1 November 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** at democraticservices@swale.gov.uk. To find out more about the work of this meeting, please visit www.swale.gov.uk

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

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

9 NOVEMBER 2023

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

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PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 9 NOVEMBER 2023

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

DEFERRED ITEMS

Def Item 1	23/500263/REM	BORDEN	Land at Wises Lane
Def Item 2	23/501017/FULL	MINSTER	Land West Of Barton Hill Drive

PART 2

2.1	23/502301/FULL	MINSTER	172 Scarborough Drive
2.2	23/503705/ADV	FAVERSHAM	Railway Hotel Preston Street
2.3	23/502412/FULL	UPCHURCH	6 Wallbridge Lane
2.4	22/505369/FULL	DUNKIRK	Former RAF Mast Courtenay Road

PART 3

3.1	22/505646/OUT	TUNSTALL	Land at Ufton Court Farm
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PART 5

5.1	21/504028/FULL	NEWINGTON	Land At School Lane
5.2	22/502499/OUT	SHEERNESS	Land Adj Checkmate New Road
5.3	22/504471/TNOT56	FAVERSHAM	Telegraph Pole Lower Road
5.4	21/502609/OUT	LYNSTED	Land to the east of Lynsted Lane
5.5	22/502726/FULL	SITTINGBOURNE	Land adj to The Coach House Chalkwell Road
5.6	22/503972/FULL	KINGSDOWN	Oast View Track To Kingsdown Church
5.7	22/503568/FULL	DODDINGTON	4 The Retreat The Street

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PLANNING COMMITTEE – 9 NOVEMBER 2023**DEFERRED ITEMS**

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM 1 REFERENCE NO – 23/500263/REM			
APPLICATION PROPOSAL			
Approval of Reserved Matters for Scale, Appearance, Landscaping, Layout being sought for the Sittingbourne Rugby Club and Community Hub including, 2x RFU compliant rugby pitches and associated parking, pursuant to application 17/505711/HYBRID			
SITE LOCATION			
Land At Wises Lane Borden Kent ME10 1GD			
RECOMMENDATION			
Delegate to the Head of Planning to grant reserved matters approval subject to appropriate conditions with further delegation to the Head of Planning /Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.			
REASON FOR REFERRAL TO COMMITTEE			
Deferred item from Planning Committee dated 17 August 2023			
WARD Borden and Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Quinn Estates AGENT None	
DATE REGISTERED 30/01/2023	PUBLICITY EXPIRY DATE 30/10/2023	CASE OFFICER Simon Dunn-Lwin	

1. INTRODUCTION

1.1 This application was initially reported to Planning Committee on 17 August 2023 with a recommendation for approval. The Chair invited Members to consider the application and points raised included the following:

- Disappointed that the developer had not engaged with Borden Parish Council and local residents on the design of the proposed building;
- The proposed 65 parking spaces was not sufficient
- Concerned about the impact any floodlighting would have on local residents the report was not clear and lots of information was missing so

- could not make a decision;
 - Only three toilets were proposed, that would not be enough;
 - Concerned about the proposed access;
 - Swale in desperate need of sports facilities;
 - Welcomed the application which would support the physical and mental wellbeing of residents;
- 1.2 Following the Planning Committee resolved to defer the application the committee minutes confirm the following resolution:
- Resolved: That application 23/500263/REM be deferred to allow responses to questions and concerns raised with regard to the following: proposed parking spaces; adequate coach turning and suitable modifications to Cryalls Lane; external lighting; the proposed number of toilets; improvements to the design of the building so it was more in-keeping with the local area; and disabled parking.*
- 1.3 In addition to the deferral a review of the relevant sections of the original report and conditions has been undertaken in light of comments made during the discussion at the August Planning Committee.
- 1.4 The original Committee Report is attached to this report as Appendix A.

2. ADDITIONAL INFORMATION

- 2.1 Since the August committee meeting, the applicant has provided the following information:
- An updated design.
 - Updated site layout plan.
 - Updated car parking plan with tracking diagram for a coach
 - Updated landscaping plan
 - Response to the specific comments made at the planning committee.

3. CONSULTATIONS

- 3.1 A second round of consultation has been undertaken with local residents, Borden Parish Council and KCC Highways on the amended plans since the committee meeting in August. Members are asked to note that the applicant engaged with Borden PC in a meeting on 2nd October.
- 3.2 Borden Parish Council – 20 October 2023
- 3.3 Borden Parish Council provide the following comments which are reproduced in full below: -.

“At their meeting on 19th October, Borden Parish Council resolved to write to Quinn’s and if the below points are accepted and Quinn’s application reflects those points, then the Parish Council does not object.

- *The floor covering for the public area and toilets is clearly discernible as different to the changing rooms’*

- *The light overspill is subject to a separate planning condition following the advice of a lighting expert.*
- *The planning department is confident that the sound and lighting conditions will result in no detrimental impact to the flora, fauna and protected species within the Nature Reserve.*
- *The Vertical cladding option is used.*
- *The 11 extra parking spaces are added.*
- *The enhanced landscaping to soften the visual impact is included.”*

(Officer response: The applicant has confirmed agreement to the requests which are covered below. Borden Parish response is available on the Council's web site)

3.4 KCC Highways – 02 May 2023

3.5 KCC Highways have assessed the amended proposals and have advised the following:

Following comments provided by Highways on 3rd March 2023, the applicant has provided an updated site layout plan which seeks to increase the number of parking spaces provided for the rugby club facility. It is appreciated that the spaces allocated already fell within the recommended parking allocation and therefore is deemed satisfactory.

I am satisfied the amendments have addressed previous concerns raised and raise no objections on behalf of the local highway authority for the approval of this reserved matters application provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority: -

- *Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plan 21/100/002REVC prior to the use of the site commencing.*
- *Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plan 21/100/002REVC prior to the use of the site commencing.*

4. REPRESENTATIONS

4.1 A further round of full neighbor consultation has been carried out and with those who made previous representation. A total of 11 replies have been received to date which raise the same concerns reported to the committee in August and the Tabled Update. One specific additional concern raised is summarised below: -

- Floodlighting and temporary floodlighting will adversely impact on the Borden Nature Reserve

(Officer response: This issue is covered at paragraph 3.3 to this Report)

- 4.2 RESPONSE TO DEFERRAL ISSUES The reasons for deferral are addressed below which responds to the points, including Borden Parish Council's latest comments.

Parking

- 4.3 The car parking layout has been revised upwards by 11 spaces to provide a total of 76 spaces. This includes 72 marked bays and 4 additional spaces in the proposed layby.
- 4.4 Members are asked to note that the original proposal was compliant with the Council's Parking SPD 2009 as referred in paragraph 7.9.8 of the original committee report. The uplift of 11 spaces to 76 in total is considered adequate and address the requirements for the dual use of the facility. KCC highways have no objection to the parking provision or access arrangements, including widening Cryalls Lane to 5.5m to enable access for cars and a coach to the facility. Vehicle tracking diagrams demonstrate a coach can enter and leave the site in forward gear. In view of the above, the proposal is considered compliant with Policies DM 6 and DM7 of the adopted Swale Local Plan, and the NPPF

Floodlighting

- 4.5 The previous Tabled Update at the August committee clarified that no floodlighting is proposed for the pitches. Condition 43 of the Hybrid permission (appeal decision) prevents 'illumination' of the rugby pitches. The condition can be enforced via a breach of condition notice (BCN) should a breach occur and it be expedient to so. The applicant has reconfirmed that there will be no floodlighting to the pitches. The applicant have confirmed the following times for matches: -

September to October, March and April is 3pm to 4.45pm

November to February is 2.30pm to 4.15pm

December to January is 2.25pm to 4pm

Sundays for Juniors are between 10am and 1pm.

- 4.6 The building will have internal illumination and the car parking areas will be externally lit for safety and security. The external lighting strategy to the car park is subject to a recommended condition for further approval. The lighting strategy will be subject to the advice of lighting engineers and assessed by the Council's Environmental Health Service for light spill.
- 4.7 With the safeguards and conditions in place for lighting and plant noise, it is considered that there should be no detriment to neighbours or the Borden Nature Reserve.

Ecological Impact and Borden nature Reserve

- 4.8 KCC Ecology confirmed the acceptance of the scheme as summarised in paragraph 7.8 of the August committee report. The Council's Tree/Landscape officer also confirms acceptance of the landscaping scheme. Habitats within

the application boundary are dominated by intensively farmed arable land, with hedgerows at the boundaries to be largely retained, aside from a 15m section to provide the main access from Cryalls Lane, the remainder would have new hedgerows to a depth of approximately 5 to 6m in width with extensive tree planting of 111 trees around the perimeter of the site as set out in paragraph 7.7.2 of the original committee report.

- 4.9 It is considered that the proposed landscaping scheme would provide sufficient containment of the rugby pitches and the community hub to mitigate the impact on the local landscape and Borden Nature Reserve. With the planting of native species, it would and provide additional natural habitat for local wildlife.

Design

- 4.10 The outline planning permission provides for a non-residential building of up to 2 storeys in height for the rugby club/community building.
- 4.11 The outline application included indicative images of a mono-pitched roof building, with balcony over-looking the pitches and this design approach has been taken for the application – in particular because of the importance of providing balcony space to the first floor community space to increase its usability and provide an area to view matches from.
- 4.12 The s106 sets out specific requirements for the building that must be met, for both changing facilities and the community space whilst the maximum floor area of the building is set out within the description of development. As such, the design of the building has to work within clear parameters and guidelines that largely dictate the footprint and form, including requiring a lift to access the first floor to ensure access is available for all.
- 4.13 Following feedback from the committee the design of the building has been amended to respond to comments made. In particular:
- the standing seam elevational treatment at the rear elevation has been replaced with vertical timber to provide a softer and more natural finish to the building. To further break up the elevations brick detailing such as a soldier course has been introduced under the vertical timber and vertical stacked brick replaces the vertical timber panels. On the side elevations, the vertical timber wraps partially around.
 - The standing seam on the sides is further broken up by an additional window) with vertical timber above the window.
 - At ground floor timber stacked brick panels have been introduced.
 - The colour of the roof material has been lightened.
- 4.14 The brick has been revised to a lighter buff brick colour. The vertical cladding to the rear would resemble an agricultural barn when viewed from Wises Lane. The applicant has engaged with Borden PC on the revised design which been

accepted as confirmed by Borden PC.

- 4.15 Additional landscaping has also been included to soften the appearance of the building at the request of Borden PC. This is reflected in the updated design of the building and amended landscaping proposal.

Toilet Facilities

- 4.16 Concern has been raised that there is insufficient WCs for the community hub. The applicant has clarified that the building has been carefully designed to meet the outline planning permission, S106 requirements, Sport England and RFU standards. At first floor, within the communal area there are 2 WCs, one of which has a baby change unit and is wheelchair accessible.
- 4.17 At the ground floor there is a further wheelchair accessible WC that is within the entrance/circulation/stair core area and considered accessible at all times. This will also be fitted with a baby change unit to avoid the need to use the lift and access the first floor for those with a baby/small child. In addition to these 3 WCs there are further WCs associated with but separate from the changing rooms.
- 4.18 There is a total of a further 11 WCs (including a disabled WC) on the ground floor (excluding the two WCs in the official changing rooms) in close proximity to the main stair/lift core. These are fully accessible and separate from the changing rooms. The Management Committee under the CUA would define when these facilities are available, depending upon the booking and use of the site.
- 4.19 The applicant also points out that the HSE advise that within a workplace of between 26-50 people being present at any one time 3 toilets and 3 washbasins are needed. For between 51-75 people present 4 toilets and 4 washbasins are needed, and for between 76-100 present people 5 toilets and 5 washbasins are needed. As such, there are more than sufficient toilet facilities within the building (13 WCs, plus the 2 in official changing rooms) to cater for any event taking place.

5 CONCLUSION

- 5.1 The submitted amendments and additional information since August 2023 demonstrate that the reserved matters are considered acceptable and that the initial recommendation for approval remains relevant. Based on the amended scheme, which has been subject to further community consultation, the proposal is considered acceptable.
- 5.2 The application is therefore recommended for APPROVAL subject to the following conditions.

CONDITIONS

1. The development hereby permitted shall be carried out in accordance with

the following approved plans:

21.048-002 Rev B Site Location Plan
 21.048-150 -Cycle Storage Details
 21.048-010 Rev K Proposed Site Layout Plan
 21-100-001 Rev B - Site Access and Tracking Diagram
 21-100-002 Rev C - Internal Layout and Tracking Diagram
 30625A-10-P4 - Proposed Floor Plans and Elevations (Vertical Cladding)
 7796.LP.1.0 Rev B – Landscape Plan

Reason: For clarity and in the interests of proper planning.

2. Prior to the construction of the development above ground details of all external finishing materials, including roofing materials and window systems, including reveals, shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: To secure and appropriate design and finish to the development in the interests of the visual amenities of the area.

3. The landscaping scheme and planting specification shown on drawing nos. 7796.LP.1.0 Rev B shall be carried out within 12 months of the completion of the development and maintained in accordance with the Landscape Management Plan by Aspect Landscape Planning dated November 2021 (Ref: 7796.Lan. Man.001). Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policy DM14 of the Local Plan 2017.

4. The scheme for parking indicated on the submitted plan 21/100/002 REV C shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction, and inconvenience to users of the adjoining highway and to comply with the National Planning Policy Framework.

5. No part of the development shall be occupied until an area has been laid out within the site for vehicle loading/unloading and turning facilities as shown on the submitted plan 21/100/002 REV C and that area shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off, park, load/unload and turn clear of the highway to minimise danger, obstruction, and inconvenience to users of the adjoining highway and to comply with the National Planning

Policy Framework.

6. Prior to the occupation of the development, a management plan covering the entirety of the operation shall be submitted for approval to the local planning authority. The plan shall include but not be limited to hours of operation and delivery, control of noise from plant and machinery, noise from internal and external activities. The plan should include procedures for response to complaints from residents or the local authority. It should include a review mechanism in response to justified complaints. Once approved the plan shall be implemented to the satisfaction of the local planning authority.

Reason: To safeguard the living conditions of existing and proposed residential neighbours to comply with Policy DM 14 of the Local Plan.

7. No external lighting shall be installed until a detailed scheme of lighting has been submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. This scheme shall take note of and refer to the Institute of ILP Guidance Note 01/21 The Reduction of Obtrusive Light (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The scheme of lighting shall be installed, maintained, and operated in accordance with the approved scheme unless the Local Planning Authority gives its written consent to any variation.

Reason: To safeguard the living conditions of residential neighbours and biodiversity to comply with Policies DM 14 and DM 28 of the Local Plan.

8. 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.

Reason: To ensure that the development does not contribute to, or is not

put at unacceptable risk from, or adversely affected by, unacceptable levels of ground or water pollution from previously unidentified contamination sources at the development site.

9. No works on the rugby pitches shall commence [or other specified time period] until the following documents have been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England:
 - (i) A detailed assessment of ground conditions (including drainage and topography) of the land proposed for the playing field which identifies constraints which could adversely affect playing field quality; and
 - (ii) Where the results of the assessment to be carried out pursuant to (i) above identify constraints which could adversely affect playing field quality, a detailed scheme to address any such constraints. The scheme shall include a written specification of the proposed soils structure, proposed drainage, cultivation and other operations associated with grass and sports turf establishment and a programme of implementation.

The approved scheme shall be carried out in full and in accordance with the approved programme of implementation before first occupation of the the clubhouse/community building. The land shall thereafter be maintained in accordance with the scheme and made available for playing field use in accordance with the scheme.

Reason: To ensure that the playing field is prepared to an adequate standard and is fit for purpose and to accord with Policy DM 17.

10. No works on the rugby pitches shall commence until a schedule of playing field maintenance including a programme for implementation for a minimum period of five years starting from the commencement of use of the rugby pitches has been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. Following the commencement of use of the rugby pitches the approved schedule shall be complied with in full.

Reason: To ensure that the playing field is first established as a functional playing field to an adequate standard and is fit for purpose and to accord with Policy DM17.

11. Prior to the use hereby permitted commencing, details of active electric vehicle charging points, to serve 8 car parking spaces shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be completed prior to first public use of the building and maintained thereafter.

Reason: In the interests of sustainable development to comply with Policy DM 19.

INFORMATIVES

Building Regulations

1. The applicant is reminded that this permission relates to planning permission only and does not constitute approval under any other legislation including Building Regulations. To obtain advice on current Building Regulations the applicant should contact the South Thames Gateway Building Control Partnership at Foord Annex, Eastgate House, High Street, Rochester, Kent ME1 1EW.

Highways

2. 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.
3. 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.
4. Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.
5. Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.
6. Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
7. Guidance for applicants, including information about how to clarify the

highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissionsand-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181.

8. Approved electric charger models for homeowners 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>

Construction Environmental Management Plan

9. As the development involves construction the applicant is advised to take account of the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected. This can be found at: <https://tunbridgewells.gov.uk/environmental-code-of-development-practice>

Sewers

10. The sewers services at this location are the responsibility of ICOSA There is an inset agreement/NAV agreement in place between Southern Water and ICOSA for the supply of sewerage services. The connection/ discharge points to the public network and agreed discharge flow rates must be complied with inset/NAV agreements terms. For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119). Website: southernwater.co.uk or by email at: SouthernWaterPlanning@southernwater.co.uk

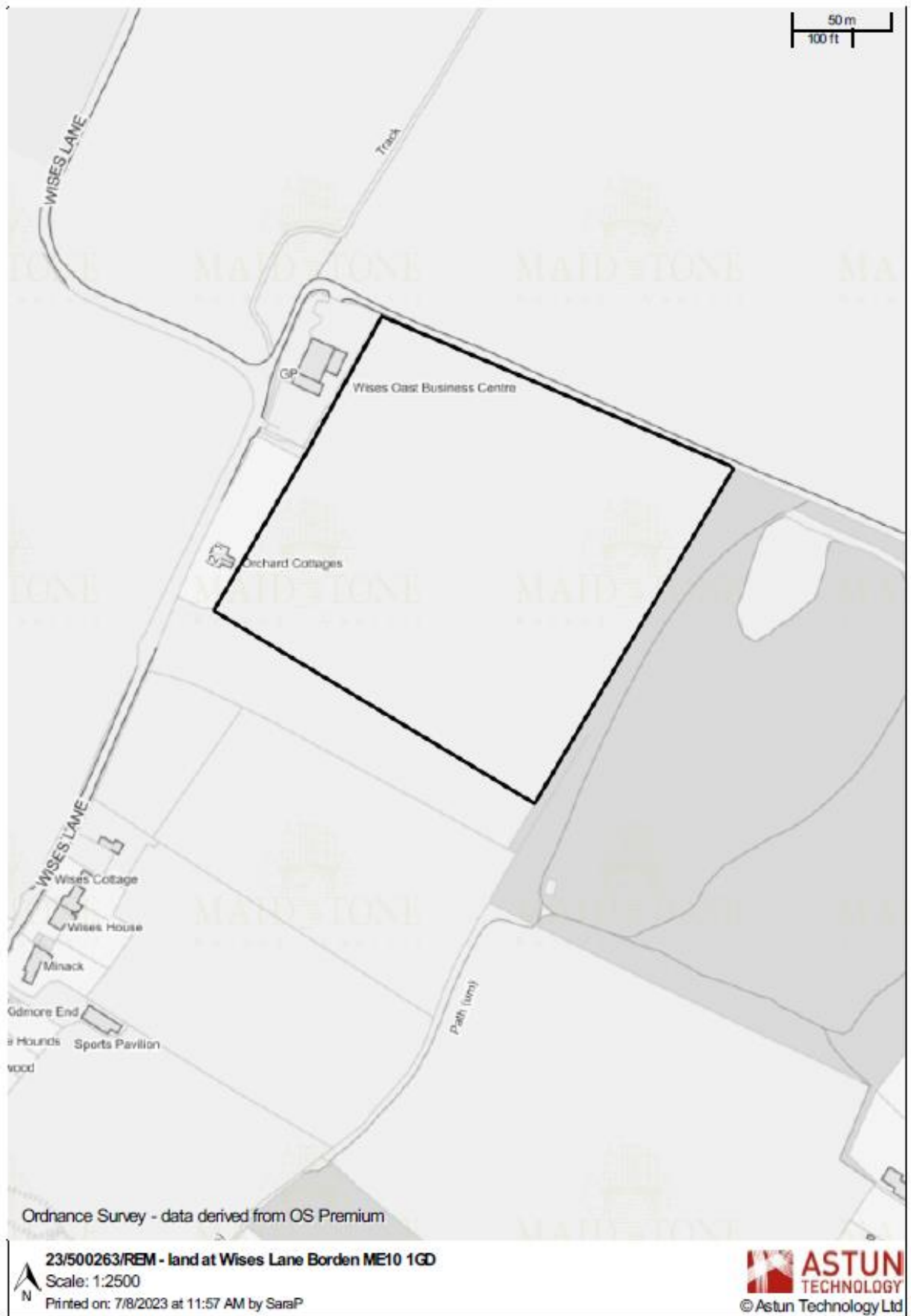
The Council's approach to the application

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

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

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

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



APPENDIX A

2.2 REFERENCE NO 23/500263/REM		
PROPOSAL Approval of Reserved Matters for Scale, Appearance, Landscaping, Layout being sought for the Sittingbourne Rugby Club and Community Hub including, 2x RFU compliant rugby pitches and associated parking, pursuant to application 17/505711/HYBRID		
SITE LOCATION Land At Wises Lane Borden Kent ME10 1GD		
RECOMMENDATION Delegate to the Head of Planning to grant reserved matters approval subject to appropriate conditions with further delegation to the Head of Planning /Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE <i>Large Major Other</i>		
REASON FOR REFERRAL TO COMMITTEE Borden Parish Council objects		
Case Officer Simon Dunn-Lwin		
WARD Borden and Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Quinn Estates AGENT None
DATE REGISTERED 30/01/23	TARGET DATE 17/04/23	CASE OFFICER Simon Dunn-Lwin
BACKGROUND PAPERS AND INFORMATION: 23/500263/REM Approval of Reserved Matters for Scale, Appearance, Landscaping, Layout being sought for the Sittingbourne Rugby Club and Community Hub including, 2x RFU compliant rugby pitches and associated parking, pursuant to application 17/505711/HYBRID. Land At Wises Lane Borden Kent ME10 1GD (midkent.gov.uk)		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site is an open field which is square in shape and measuring approximately 3.76 hectares in area. It has a frontage of approximately 200m in length on Cryalls Lane with a depth of approximately 187m to the southern boundary. It sits behind Orchard Cottages and Wises Oast Business Centre on Wises Lane to the west. The site forms part of the larger site allocated in the Local Plan for the approved urban extension across 74 hectares of land to the southwest of Sittingbourne.
- 1.2. The site is enclosed on Cryalls Lane by hedging and bordered by woodland to the east, referred to as Borden Nature Reserve, although it has no formal designation in the Local Plan. The southern site boundary terminates approximately 40m from the enclosing hedgerow to the field. It is currently accessed from Wises Lane to the south of Orchard Cottages. In the wider context it is agricultural

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land located in the rural area approximately 132m north of Borden Village edge at the nearest point. The site is situated within Flood Zone 1 with a low probability of flooding.

1.3. As well as the MU3 allocation cited above, the site is impacted by the following Local Plan designations: -

- The northern section of the site is located in the built-up area boundary (Policy ST3).
- It is within the Kent Minerals Brickearth Area
- Wises Lane is identified as a Rural Lane under Policy DM26
- The southern section of the site is allocated as an Important Local Countryside Gap under Policy DM25.
- Grade 1 agricultural land (Policy DM31)
- The western portion of the site nearest to Wises Lane sits within an area of archaeological potential under Policy DM34

1.4. No public footpaths cross the site. The nearest public footpath is ZR121 which is located to the southwest of Orchard Cottages on the west side of Wises Lane. Footpath ZR122 is situated approximately 140m to the southeast connecting Auckland Drive in the northeast to Borden Village in the south. The nearest heritage assets are Thatch Cottage (Grade 2 Listed) to the southwest in Borden 210 metres away. Another Grade 2 Listed Building at Cryalls Farmhouse sits 235metres to the east on Cryalls Lane.

2. PLANNING HISTORY

2.1. **17/505711/HYBRID** - Hybrid planning application with hybrid planning permission (all matters reserved except for access) sought for up to 595 dwellings including affordable housing; a two-form entry primary school with associated outdoor space and vehicle parking; local facilities comprising a Class A1 retail store of up to 480 sq m GIA and up to 560sqm GIA of "flexible use" floorspace that can be used for one or more of the following uses - A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), D1 (non-residential institutions); a rugby clubhouse / community building of up to 375 sq m GIA, three standard RFU sports pitches and associated vehicle parking; a link road between Borden Lane and Chestnut Street / A249; allotments; and formal and informal open space incorporating SuDS, new planting / landscaping and ecological enhancement works. Full planning permission is sought for the erection of 80 dwellings including affordable housing, open space, associated access / roads, vehicle parking, associated services, infrastructure, landscaping and associated SuDS.

For clarity - the total number of dwellings proposed across the site is up to 675.

Appeal Allowed Decision Date: 29.04.2021

2.2. **21/506820/SUB** - Submission of details pursuant to condition 60 (Skylark Mitigation Strategy produced by Aspect Ecology and dates December 2021) in relation to planning reference 17/505711/HYBRID and appeal decision V2255/W/19/3233606.

Approved Decision Date: 30.09.2022

2.3. **22/500132/SUB** - Submission of Details to Discharge Condition 53 - Contaminated Land assessment - i) A desk study, ii) Site investigation strategy, iii) An investigation -Soil, Soil gas, Surface and groundwater, iv) A site investigation report, v) Verification plan, Condition 57 - Scheme of gas protection measures and Condition 69 Soil Management strategy Phases 1A and 1B subject to 17/505711/HYBRID (V2255/W/19/3233606).

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Approved Decision Date: 23.05.2022

- 2.4. **22/500133/SUB** - Submission of Details to Discharge Condition 58 Ecological Report - 1) Breeding bird survey Areas of site not originally surveyed, 2) Breeding Bird Survey Proposed skylark mitigation area(s), 3) Bat activity survey, 4) Reptile survey and 5) Dormouse Survey and Condition 59 (Part Discharge Phase 1A only) - Updated badger survey subject to 17/505711/HYBRID (V2255/W/19/3233606).
Approved Decision Date: 06.04.2022
- 2.5. **22/500134/SUB** - Submission of details pursuant to Condition 17 (measures to minimise risk of crime) of application 17/505711/HYBRID (allowed on appeal V2255/W/19/3233606).
Approved Decision Date: 20.06.2022
- 2.6. **22/500639/SUB** - Submission of details pursuant to Condition 61 (Construction Ecological Management Plan) of Planning Application 17/505711/HYBRID Appeal reference (APP/V2255/W/19/3233606).
Approved Decision Date: 06.05.2022
- 2.7. **22/500782/SUB** - Submission of details pursuant to condition 2 (a phasing plan for delivery of the development) in relation to planning permission 17/505711/HYBRID (allowed at appeal under reference APP/V2255/W/19/3233606) in relation to the whole site.
Approved Decision Date: 06.05.2022
- 2.8. **22/500783/SUB** - Submission of Details to Discharge Condition 28 - Scheme to demonstrate the retention and phasing of road connections subject to 17/505711/HYBRID (V2255/W/19/3233606).
Approved Decision Date: 14.12.2022
- 2.9. **22/500784/SUB** - Submission of Details to Discharge Condition 20 - Construction Management Plan - Measures to manage HGV movements, Loose arriving/departing are sheeted, Temporary traffic management and signage, Parking and turning areas, Loading and unloading, storage of plants and materials, Security hoarding, wheel washing facilities, measures to control emission of dust and dirt and scheme for recycling/disposing of waste subject to 17/505711/HYBRID (V2255/W/19/3233606).
Approved Decision Date: 01.11.2022
- 2.10. **22/501634/SUB** - Submission of details pursuant to condition 41 (advance soft landscaping scheme) of application 17/505711/HYBRID (allowed on appeal APP/V2255/W/19/3233606).
Approved Decision Date: 06.02.2023
- 2.11. **22/502221/SUB** - Submission of details pursuant to Condition 70 - (details of the scheme of air quality mitigation) in relation to planning application 17/505711/HYBRID and appeal decision (APP/V2255/W/19/3233606).
Approved Decision Date: 06.02.2023
- 2.12. **22/502773/SUB** - Submission of details pursuant to condition 66 - (programme of archaeological field evaluation works relating to the rugby club site (Phase 2E)) in relation to planning permission 17/505711/HYBRID.
Approved Decision Date: 05.06.2023

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- 2.13. **22/503698/NMAMD** - Non-material amendment in relation to planning permission 17/505711/HYBRID and appeal reference V2255/W/19/3233606: To change the wording of condition 66 to 'Before the approval of reserved matters for any phase (excluding Phase 1A), the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works for that phase, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority'.
Approved Decision Date: 06.09.2022

Related Applications

- 2.14. **22/504823/REM** - Approval of Reserved Matters (Layout, Scale, Appearance and Landscaping being sought) for the western spine road (Phases 2B & 2C) pursuant to 17/505711/HYBRID - Hybrid planning application with hybrid planning permission (all matters reserved except for access) sought for up to 595 dwellings including affordable housing; a two-form entry primary school with associated outdoor space and vehicle parking; local facilities comprising a Class A1 retail store of up to 480 sq m GIA and up to 560sqm GIA of "flexible use" floorspace that can be used for one or more of the following uses - A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), D1 (non-residential institutions); a rugby clubhouse / community building of up to 375 sq m GIA, three standard RFU sports pitches and associated vehicle parking; a link road between Borden Lane and Chestnut Street / A249; allotments; and formal and informal open space incorporating SuDS, new planting / landscaping and ecological enhancement works. Full planning permission is sought for the erection of 80 dwellings including affordable housing, open space, associated access / roads, vehicle parking, associated services, infrastructure, landscaping and associated SuDS.
Pending Consideration
- 2.15. **22/504937/REM** - Approval of Reserved Matters (appearance, landscaping, layout and scale) for Phase 1B, 2A, 2B and 2C for the erection of 209no. dwellings including affordable, together with associated access, landscaping, equipped play, drainage, infrastructure and earthworks, pursuant to 17/505711/HYBRID - Hybrid planning application with hybrid planning permission (all matters reserved except for access) sought for up to 595 dwellings including affordable housing; a two-form entry primary school with associated outdoor space and vehicle parking; local facilities comprising a Class A1 retail store of up to 480 sq m GIA and up to 560sqm GIA of "flexible use" floorspace that can be used for one or more of the following uses - A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), D1 (non-residential institutions); a rugby clubhouse / community building of up to 375 sq m GIA, three standard RFU sports pitches and associated vehicle parking; a link road between Borden Lane and Chestnut Street / A249; allotments; and formal and informal open space incorporating SuDS, new planting / landscaping and ecological enhancement works. Full planning permission is sought for the erection of 80 dwellings including affordable housing, open space, associated access / roads, vehicle parking, associated services, infrastructure, landscaping and associated SuDS.
Pending Consideration
3. **PROPOSED DEVELOPMENT**
- 3.1. Approval of reserved matters is sought for scale, appearance, landscaping and layout for the Sittingbourne Rugby Club and Community Hub including, 2x Rugby Football Union compliant rugby pitches and associated parking, pursuant to application 17/505711/HYBRID.

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- 3.2. The proposal comprises a two storey club house/community building (with single storey side wings) located to the west of the site with access from Cryalls Lane. The building provides the following internal space: -

First Floor

- Main hall that can be subdivided -101 sqm
- Kitchen - 6.2 sqm
- Store - 6.2 sqm
- Bar Servery - 8.3 sqm
- Cellar (store) - 5.2 sqm
- Plant room - 8.1 sqm
- Cleaners store - 3.1 sqm
- WC 1&2 upstairs - 6.2 sqm
- Entrance, circulation space, lift core and stairs – 11.5 sqm

First floor total – 155.8 sqm

Ground floor

- WC 3.6 sqm
- Official changing 1 – 6.3 sqm
- Official changing 2 – 5.9 sqm
- Physiotherapy room – 10 sqm
- Equipment store – 7 sqm
- 18-20 persons changing room with showers 76.2 sqm
- 15-16 persons changing room with showers 61.8 sqm
- Entrance, circulation, lift and stair core 43 sqm.

Ground floor total 213.8 sqm

- 3.3. The total floor space within the building is 370 sqm (GIA) with a 39sqm first floor external balcony to the front facing the rugby pitches. Car parking provision amounts to 65 spaces, including 4 disabled spaces located to the rear and side of the building adjacent to the on-site central access. The eastern part of the site consists of two full size rugby pitches. The entire site is enclosed by landscaping, tree and hedge planting.

4. CONSULTATION

- 4.1. One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. A total of 52 letters of representation were received in relation to the consultation, 17 of which objected to the application. Concerns / comments were raised in relation to the following matters: -

- Significant traffic generation, particularly on match days

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- Highway safety issues in Cryalls Lane
- Cumulative impact of traffic from Playstool cricket and football matches at weekends and evenings
- Insufficient parking provision to meet demand
- Lack of facilities for disabled players
- Generate air pollution
- Increased light and noise pollution in area from club house use and cars coming and going.
- Hours of operation
- Clubhouse use will encourage anti-social behaviour
- Loss of Grade 1 agricultural land for food production
- Loss of countryside to development
- Not a suitable location for emergency vehicle access
- Negative impact on local wildlife, particularly on adjacent nature reserve
- Loss of Skylark habitat
- Impact on nocturnal fauna, including foxes, badgers, Barn Owl, Tawny Owl and Little Owl.
- Rugby ball kicked into nature reserve will damage local flora/protective fencing/netting required
- No badger proof fencing to protect the pitches/loss of wildlife corridors
- Cryalls Lane requires parking restrictions to prevent overspill parking
- Inadequate toilet facilities.
- Poor design out of keeping with rural setting
- No storage facility for grounds equipment
- Landscape management plan inadequate – no organic products mentioned particularly for weed control.
- Water supply capacity for watering programme questioned
- Conflicts with SBC Playing Pitch Strategy 2016-2026 – surplus of playing fields.

4.3. The 35 letters of representation received supporting the proposal raised the following matters which are summarised: -

- Will benefit young and old in the community to participate
- Current facilities are overcrowded and out of date
- Expand rugby facilities for wider community
- Benefit to commerce and trade in Sittingbourne
- Considerately designed and well placed
- Good for health and wellbeing (physical and mental)
- Provide modern enhanced facilities
- Access improved and reduced traffic on Borden Lane
- First opportunity in 50 years for a “home of their own”
- Offer opportunity for the disadvantaged and isolated people in the community

- 4.4. **Borden Parish Council** objected to the application on the following grounds: -
- Estate Managing Agent should be defined
 - Badger survey out of date
 - Condition required for long term management of landscaping
 - Stop netting required to east, south and west boundaries to prevent balls entering neighbouring land
 - Restrict vehicle access to Cryalls Lane only which should be widened to 5.5m from Wises Lane junction
 - Cryalls Lane should be 20mph zone
 - Ecology Report reliance on low ecological significance of Borden Nature Reserve (BNR) is incorrect
 - Further ecological surveys required before any works and due weight should be given to BNR
 - No reference to gas leaks from BNR. Appropriate safeguards should be in place
 - Playing pitches require time to 'settle' as per RFU regulations affecting occupation usage timeline
 - Clubhouse design not in keeping with rural setting
 - Archaeological assessment required before any works with ongoing monitoring during works
 - Construction and Ecological Management plan should be approved before any works start
 - Insufficient toilet facilities for non-players which should provide separate male and female toilets
 - Insufficient storage for grounds maintenance, playing and training equipment
 - Inadequate parking provision for players/away teams with prospect of further 2 junior and 1 senior pitch likely to displace parking on nearby roads and verges
 - Inadequate space for coaches to manoeuvre within site
 - Dispute Transport Statement estimates of 75 people for match days and trips
 - Draw attention to completion trigger for rugby club facility on occupation of 180 dwellings and the completion of Wises Lane and Spine Road link.

The full response is attached as Appendix 1.

5. REPRESENTATIONS

SBC Conservation: - No objection subject to condition on facing materials

SBC Tree Officer – No objection subject to conditions

Mid Kent Environmental Health: - No objection subject to conditions

KCC Archaeology – No objection

KCC Ecology: - No objection

KCC Flood and Water Management: -No objection

KCC Minerals – No objection

KCC Highways: - No objection

KCC PROW: - No objection

Natural England - No objection

Sport England: - No objection subject to conditions

Southern Water: - No objection to the application and comment that *“The sewers services at this location are the responsibility of ICOSA There is an inset agreement/NAV agreement in place between Southern Water and ICOSA for the supply of sewerage services. The connection/ discharge points to the public network and agreed discharge flow rates must be complied with inset/NAV agreements terms.”*

Lower Medway Internal Drainage Board – No comments to make.

Kent Police: - Advise applicant to contact Designing Out Crime Officers (DOCOs) to address CPTED (Crime Prevention Through Environmental Design) and incorporate Secure by Design (SBD) as appropriate.

SBC Greenspaces Manager: - recognises that at peak times there is no surplus of rugby pitches in the area.

6. DEVELOPMENT PLAN POLICIES

6.1. **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 –**

ST 1 (Delivering sustainable development)

ST 5 (Sittingbourne area strategy)

MU 3 (Land at south-west Sittingbourne)

CP 4 (Requiring good design)

CP 5 (Health and wellbeing)

CP6 (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 14 (General development criteria)

DM 17 (Open space, sport and recreation provision)

DM 19 (Sustainable design and construction)

DM 21 (Water, flooding and drainage)

DM 24 (landscape)

DM 28 (Biodiversity and geological conservation)

DM 29 (Woodland, trees and hedging)

DM 31 (Agricultural land)

DM 32 (Development involving listed buildings)

DM 34 (Scheduled Monuments and archaeological sites)

6.2. **Supplementary Planning Guidance/Documents**

- Parking Standards (May 2020)
- Swale Landscape Character and Biodiversity Appraisal (November 2011)
- Air Quality and Planning – Technical Guidance (Updated May 2021)
- Planting on New Developments

7. ASSESSMENT

7.1. This application is reported to the Committee because Borden Parish Council has objected to the proposal. Considering these comments and the proposal that has been submitted, the committee is recommended to carefully consider the following points which are the main considerations of this application.

- Principle of Development
- Landscape and Visual Impact
- Heritage Impact
- Archaeology
- Design, layout and appearance
- Landscaping
- Ecology
- Transport and Highways

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- Air Quality
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions
- Sustainability / Energy

7.2. Principle

- 7.2.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.2.2. In this case, the principle of the development is established by the appeal decision dated 29th April 2021 granting hybrid planning permission for a rugby clubhouse/community building up to 375 sqm (GIA), 3 standard RFU sports pitches and associated vehicle parking within Phase 2F (the current application site) of the overall hybrid development across the MU3 allocated land to the south-west of Sittingbourne. This proposal only includes the provision of two pitches in line with the approved parameter plan. The third sports pitch is provided to the west of the site as part of the school grounds (Phase 2F) to accord with the approved parameter plans.
- 7.2.3. The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 7.2.4. Representations have expressed concern about the loss of agricultural land, but members are asked to note that this issue was considered at the appeal stage for the principle of the development and the proposal is considered compliant with Policy DM31.

7.3. Landscape and Visual Impact

- 7.3.1. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting.*' The landscape and visual impacts of the overall development scheme was considered at the appeal stage to be acceptable, given the site allocation under Policy MU3. The Inspector considered that the landscape impacts would be acceptable and accord with Policy DM24.
- 7.3.2. The site accords with the hybrid masterplan approved at outline stage where the impact of the proposal upon the wider landscape was carefully considered by the Planning Inspector to be acceptable. Given broad accordance with the approved masterplan and parameter

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plans any impact upon the landscape is considered to be acceptable therefore the proposal accords with Policy DM24 of the Local Plan 2017.

7.4. Heritage Impact

- 7.4.1. The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.4.2. The Heritage Statement submitted in support of the application concludes that the significance of the identified heritage assets potentially impacted by the proposal will be preserved. The statement has been reviewed by the Council's Conservation and Design Manager who concurs.
- 7.4.3. For clarity, the heritage assets potentially impacted by the proposal are all designated assets consisting of the following identified on the submitted heritage asset plan: -
- Borden (The Street) Conservation Area
 - Grade I listed Parish Church of SS. Peter & Paul
 - Grade II* listed Borden Hall
 - Grade II listed Dovecote, north of Borden Hall
 - Grade II listed Cryalls Farmhouse
 - Grade II listed Thatch Cottage
 - Grade II listed Oak House
 - Grade II listed Street Farm House
 - Grade II listed Apple Tree Cottage
 - Grade II listed Forge House/Barrow House and railings
 - Grade II listed Forge (east of Forge House)
 - Grade II listed Holly Tree Cottage
 - Grade II listed Yew Tree Cottage
- 7.4.4. It is considered that the only structures of the proposed development which could have any material degree of intervisibility with some of the aforementioned heritage assets will be the upper parts of the rugby pitches goal post, so any visual impact would be minimal. However, any proposal to introduce floodlighting to the pitches could make the proposed development materially more impactful in the wider landscape. No floodlighting is proposed in the current application. The committee is asked to note that should flood lighting be required following reserved matters approval it will be subject to a standalone application for determination on the basis that condition 43 of the outline permission prevents the sports pitches from being illuminated.

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- 7.4.5. Equally, heritage impacts on listed buildings (Cryalls Farmhouse and Thatch Cottage – both included in the List of Buildings of Special Architectural or Historic Interest as Grade II) were considered in the context of the NPPF and S.66 of the Planning (Listed Buildings and Conservation Areas) Act at the appeal stage to be acceptable. The heritage impacts were considered ‘low’ and substantially outweighed by the public benefit of the scheme. Consequently, the appeal decision determined that the hybrid proposal would accord with Policy DM32. Further consideration of the heritage impact of this reserved matters proposal is considered below.
- 7.4.6. In considering the impact of this proposal on designated heritage assets, officers have had regard to the Council’s obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990. The setting of the listed buildings nearby (Thatch Cottage and Cryalls Farmhouse) would be preserved. The overall impact on heritage assets identified would be less than substantial at the lower end in NPPF terms. Consequently, due to the public benefits of this element of the proposal in the form of dedicated sports provision the proposal would be Policy DM32 compliant.

7.5. Archaeology

- 7.5.1. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.5.2. Policy DM 34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.
- 7.5.3. The applicant submitted a programme of field evaluation work under Condition 66 of the hybrid permission which was part approved on 05/06/23 following KCC Archaeology consideration and confirmation (ref: 22/502773/SUB). The field evaluation has been monitored by KCC Archaeology and completed. The applicant has submitted the findings in a preliminary report which has been considered by KCC, who confirm that while some amendments to the report are needed to address it is sufficient to satisfy Condition 66 of the hybrid permission to enable the reserved matters application to be determined for this site.
- 7.5.4. In view of this, officers consider that the proposal is compliant with Policy DM 34 of the adopted Local Plan, together with Section 16 of the National Planning Policy Framework.

7.6. Design, Layout and appearance

- 7.6.1. The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement under Policies CP 4 and DM14.

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- 7.6.2. The proposed two storey club house building is considered appropriate in scale to the surrounding context of existing and emerging phased development under the hybrid permission on the north side of Cryalls Lane. The scale and land use proposed conforms with the approved building heights parameters plan 2574-304 Rev P and the land use parameters plan 2574-300 Rev N.
- 7.6.3. The proposed layout conforms with the approved masterplan 2574-401 rev J by locating the clubhouse/community building and car parking to the western part of the site with the remaining eastern part laid out as rugby pitches and surrounded by landscaping.
- 7.6.4. The architecture of the building presents a contemporary character as a new landmark statement. The materials proposed for the clubhouse comprise a combination of dark coloured vertical metal cladding and red stock brick. Elements of infill vertical timber cladding are also incorporated. The lift and stair core are expressed in a contrasting-coloured metal panel system. The windows and doors are proposed as dark grey finished frames. The pitched roof is finished in standing seam metal material.
- 7.6.5. The applicant has submitted details of existing and proposed site levels to discharge Condition 15 of the hybrid permission which is required at the reserved matters stage. There is no significant level change in levels around the clubhouse, parking areas or pitches and the information is considered sufficient to discharge Condition 15 of the hybrid permission.
- 7.6.6. Officers consider the design of the building is appropriate to the context. During the assessment stage minor amendments were requested to provide lean-to pitch roofs over the side single storey wings (originally flat roofs) which have been incorporated to improve the overall symmetry of the design. The appearance is considered a reflection of a high-quality contemporary design to comply with relevant policy requirements and is acceptable in the context of the hybrid scheme in an emerging semi-rural/suburban setting. Subject to details of facing materials to be reserved by condition for further approval there is no objection to the scale, layout and appearance which is considered compliant with Policies CP 4 and DM14.

7.7. Landscaping

- 7.7.1. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through policy DM 29 of the Local Plan.
- 7.7.2. Extensive landscaping is proposed within the site, which forms 5-6m wide buffers along the site boundaries. The new entrance on Cryalls Lane requires removal of part of the hedging. Native planting including 111 trees of a native woodland mix, low level native shrubs and native boundary hedges are proposed to complement its setting. The site remains largely green with natural turf for the rugby pitches conforming with Sport England design guidance.

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This would also comply with Condition 43 of the hybrid permission to secure grass sports pitches.

- 7.7.3. The Council's Tree Officer has considered the landscaping proposal and planting specification, together with the Landscape Management Plan, which are considered acceptable, subject to the submitted details being secured by condition for this site, notwithstanding the indicative landscaping strategy has been approved within the hybrid permission and the requirements of Condition 62 (CEMP) as referred in the ecology section below.
- 7.7.4. Overall, officers consider that the landscaping proposal would mitigate the impact on the local landscape, including the adjacent Borden Nature Reserve, contribute to ecology and visual amenity to comply with Policy DM 14 and DM 24.

7.8. Ecology

- 7.8.1. National planning policy aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".
- 7.8.2. In terms of the Local Plan, policy DM 28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated. The issue of Biodiversity Net Gain has been dealt with in the appeal. Overall BNG is 12.9%.
- 7.8.3. Pre-commencement conditions in the hybrid permission relating to ecology require the following details: -
- Condition 58 – Updated baseline surveys for breeding birds, bats, reptiles and dormouse;
 - Condition 59 – Updated Badger Survey;
 - Condition 60 – Revised Skylark Mitigation Strategy;
 - Condition 61 -Construction Ecological Management Plan (CEMP); and
 - Condition 62 – Landscape and Ecological Management Plan (LEMP) to be submitted within 6 months of the commencement of development of any phase.
- 7.8.4. The above requirements are considered to address the concerns raised by local residents and Borden PC on biodiversity/habitat impact. Members are also asked to note that in response to local concerns relating to Skylarks, a mitigation strategy has been approved under Condition 60 of the hybrid permission, as referenced above on 11/04/2022 (21/506820/SUB). A legal agreement is also in place dated 15/09/2022 to fulfil the requirements of the approved Skylark mitigation strategy.

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- 7.8.5. A site wide Construction Ecological Management Plan (CEMP) pursuant to Condition 60 of the hybrid permission was also approved on 06/05/2022 under reference 22/500639/SUB as listed above. Should the application be approved, further details relating to Conditions 58, 59 and 62 require submission for approval before works start on this site.
- 7.8.6. This application is supported by an Ecology Technical Note by Aspect Ecology acknowledging the requirements under the hybrid permission as set out above.
- 7.8.7. The application and supporting information have been considered by KCC Ecology who confirm that ‘it is sufficient to determine the application.’ KCC Ecology acknowledge that with the exception of the new access creation on Cryalls Lane the hedgerows are to be retained and enhanced within the site. KCC Ecology also confirm the following:
- Measures detailed within the CEMP submitted under Condition 61 are valid for this application to avoid impact on bats, badgers, dormouse, nesting birds and reptiles;
 - The submitted plans confirm that hedgerows within the site will be enhanced by native species planting/woodland buffer and the grassland surrounding the pitches are to use flowering lawn mix which is mown more regularly but provide benefits to biodiversity;
 - A management plan has been submitted indicating that habitats will be managed sensitively. However, the management plan (Landscape Management Plan by Aspect Ecology referred above under landscaping) was written in November 2021 and recommend that on completion of all the reserved matters the management plan for the site is reviewed and takes account of any changes.
- 7.8.8. In view of the above, officers consider that there are existing conditional safeguards to protect biodiversity and the application should be supported on ecological grounds subject to the discharge of relevant safeguarding conditions referred above. Consequently, officers consider the proposal is Policy DM 28 compliant.

7.9. Transport and Highways

- 7.9.1. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver an integrated approach. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

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7.9.2. The NPPF also states that:

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

- 7.9.3. Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.
- 7.9.4. The proposal should be viewed in the context of the hybrid scheme and the provision of the spinal link road from Key Street serving the overall MU3 development site including access to the proposed development. Local concerns relating to traffic congestion and highway safety were dealt with extensively at the public inquiry. The Inspector concluded on the complex transport issue that *‘subject to the implementation of mitigation measures the appeal scheme would not have an unacceptable impact on highway safety or the free flow of traffic on the local or strategic road network contrary to Policy DM 6’* (paragraph 11.11).
- 7.9.5. KCC Highways have considered the amended plan and confirm that they are satisfied with the amendments. KCC Highways also confirm that Cryalls Lane will become a residential road with a 30mph speed limit from the current 60mph national speed limit. The road will also be widened to 5.5m. The latter address local concerns albeit the speed limit is not the 20mph requested by Borden PC. Given the context of the site and surroundings and KCC’s acceptance on the speed limit change, officers consider it is acceptable (notwithstanding that this is not a matter which this reserved matters application can control). Subject to an informative KCC Highways confirm that they have no objection to the proposal.
- 7.9.6. The application is supported by a Transport Statement (TS) which has been considered by KCC Highways, who acknowledge that the highway impacts on the local road network was accepted at the appeal stage for the hybrid application.
- 7.9.7. KCC Highways initially raised concerns about coach turning areas and parking for a 12m coach within the site. In addition, minimum size of parking spaces of 2.5m by 5m and 6m by 3.7m for disabled spaces with a 0.2m extra edge to end spaces abutting landscaped edges were requested. The applicant has submitted an amended plan to address the issues in drawing number 21-100-002 Rev B.
- 7.9.8. Car parking provision at 65 spaces with 4 disabled spaces complies with the SBC Parking Standards for D2 use (outdoor sports facilities) which requires an advisory number of 25 spaces based on projected players and spectators for both pitches. One coach parking space is provided within the site. The clubhouse with D2 community use also adds a requirement of one space per 22sqm of floor space equating to a further 7 spaces if both facilities are in use. The total SPD requirement is therefore 32 car parking spaces. The

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scheme is therefore in accordance with the Council's adopted Parking Standards SPD and Officers consider the total car parking provision, including a coach parking space, complies with is SPD and Policy DM 7 compliant. However, no EV charging points are proposed which can be secured by condition to meet the 10% SPD requirement for active charging spaces or 7no.

- 7.9.9. Conditions of the hybrid permission on highway matters require submission and approval on the following matters: -

Conditions 33 (Travel Plan);

Condition 36 (covered secure cycle parking provision); and

Condition 37 (details of roads and footpath finishes, including lighting, drainage

- 7.9.10. Condition 36 (covered secure cycle parking) is satisfied by details submitted in this application for 10 spaces which complies with the SBC standard requiring at least 6 spaces and therefore this condition can be discharged. Conditions 33 requires further details for approval prior to occupation. Condition 37 requires further details for submission and approval before construction begins.

- 7.9.11. In addition to the above, the Transport Statement points out that once the western link road and local access roads in the overall MU 3 estate are completed a dedicated local bus service, cycle ways and footways will enable alternative sustainable modes of travel to access the site from surrounding residential areas.

- 7.9.12. In view of the above, the proposal is considered compliant with Policies DM 6 and DM7 and the NPPF.

7.10. Air Quality

- 7.10.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.

- 7.10.2. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.

- 7.10.3. The Planning Practice Guidance on Air Quality states that

“whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate

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air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”

- 7.10.4. The Local Plan at Policy DM 6 sets out that development proposals will 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.
- 7.10.5. Air quality was considered in the Public Inquiry across the whole MU3 development site. Substantive evidence and representation from all parties, including local residents (BRAD) on the issue was considered by the Planning Inspector. The LPA acknowledged at the inquiry that air quality objectives would not be breached but additional pollution is being introduced. The Inspector considered ‘that position had already been accepted in the site allocation, despite the LPA and BRAD’s approach for no-development which given the need for new housing is an unrealistic argument.’
- 7.10.6. The Inspector concluded that ‘with the link road and direct access onto the A249 it would result in reductions in traffic on the existing A2 and Key Street (roundabout which were the most sensitive receptors) with consequent decrease in congestion and improvements in air quality through reduced vehicle emission. Whilst the development would involve changes in air quality at the appeal site through vehicle emissions where no houses currently exist and traffic levels are lower, with the direct mitigation measures and conditions to reduce dwelling emissions it is reasonable to conclude that air quality levels would be well below the objective limits. Thus, while the effects of the development could, simplistically be described as redistribution, the objectives to Policy DM 6 (2d) that “....proposals do not worsen air quality to an unacceptable degree.....” is acknowledged.
- 7.10.7. Members are asked to note that details of the scheme of air quality mitigation under Condition 70 of the hybrid permission was approved on 06/02/2023 under reference 22/502221/SUB. Given the appeal consideration on this issue and subsequent approval of details officers consider that the concerns on air quality are adequately dealt with.
- 7.10.8. Notwithstanding the above local concern on air quality impacts, this matter has been mitigated through the outline permission via associated condition and Section 106 agreement. On this basis the Environmental Health have raised no objections. On this basis the proposal is considered to accord with Policy DM 6 of the Local Plan 2017.

7.11. Flood Risk, Drainage and Surface Water

- 7.11.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in policy DM 21 of the Local Plan. The hybrid permission is supported by a Flood Risk Assessment (FRA) and Addendum to Flood Risk Assessment dated May 2018. Each phase within the overall development site is subject to a detailed drainage strategy to be submitted and approved

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before works commence (Condition 49) and ongoing maintenance (Condition 50). The applicant acknowledges this will be submitted should the reserved matters be approved.

- 7.11.2. KCC have been consulted formally on this application and comment that ‘due to the large amount of space available for infiltration features, we would have no objection to the determination of reserved matters.’
- 7.11.3. In view of the above, the proposal is considered to comply with Policy DM 21 subject to further details for approval under the hybrid permission as stated.

7.12. Contamination

The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.

- 7.12.1. Condition 53 of the hybrid permission required the submission of a contaminated land assessment. The details have been submitted and approved under Condition 53 on 23/05/2022 under reference 22/500132/SUB as listed above. The assessment also considered the risk of ground gas is acceptable. The EHO however considers a contamination watching brief condition is necessary. The proposal is therefore considered compliant with Policy MU 3 (10).

7.13. Living Conditions*Existing residents*

- 7.13.1. The Local Plan Policy DM 14 requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.13.2. The nearest residential properties lie to the southwest at 1 and 2 Orchard Cottages, a semi-detached pair. No.1 Orchard Cottage is located approximately 50m in a straight line from the proposed club house. The car parking area behind the cottages are approximately 12m from the common boundary. Considering the separation distances with the nearest residential neighbours any impact of the proposal upon the living conditions including noise and light pollution is considered to be acceptable. SBC Environmental Health has raised no objection to the proposal subject to conditions relating to the submission of an operational management plan, which will include details of the hours of operation and a external lighting strategy. These conditions can be reasonably imposed upon this application avoid any undue impact upon neighbouring occupiers. The proposal is therefore considered to comply with Policy DM 14.
- 7.13.3. The committee is asked to note that the use of the clubhouse is subject to a ‘Community Uses Agreement’ (CUA) required by the existing S106 agreement covering the hybrid development. The CUA secures, among others, the opening hours to be approved by the Management Committee which includes an SBC officer, SBC Councillor and a Borden Parish Councillor.’ The CUA must be in place before the facility can be used

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7.14.1. Policy DM 19 of the Local Plan requires development proposals to include measures to address climate change.

7.14.2. The proposal has been designed to provide a sustainable development to achieve a BREEAM “very good” rating demonstrating recognised sustainability credentials in accordance with adopted policy DM19 and adheres to the requirements of Condition 14 (BREEAM ‘very good rating’) of the hybrid planning permission. The verification certificate is also required for approval under the same condition.

7.15. Other matters

7.15.1. The concerns expressed by local residents and the Borden Parish Council are largely addressed within the body of the report.

7.15.2. With regard to safety netting around the rugby pitches this is not a statutory or Sport England requirement and rugby pitches are generally not subject to safety netting, given the risk from bodily injury by a rugby ball is less than a cricket ball. The rugby pitches are contained within the site with wide landscaped edges to the boundaries and tree planting. In terms of the potential impact on Borden Nature Reserve (BNR) from a displaced ball, goal posts from pitch 1 (south) are approximately 36m to the BNR boundary and 42m for pitch 2 (north) and considered a minimal risk given the distances involved, notwithstanding the existing tree screening on the BNR boundary.

7.15.3. With regard to concerns over insufficient toilet facilities within the club house, there are 15 toilets provided. 13 on the ground floor and 2 on the first floor for dual use, including 2 disabled toilets. A lift is also provided for disabled use in the main stair core.

7.15.4. With regard to the concern relating to the conflict with SBC Playing Pitch Strategy 2016-2026 on the surplus of playing pitches, the Greenspaces Manager has provided the following comments: -

“The paragraph (page 2) identifies that at the time of the study there was a theoretical surplus of rugby pitches across the Borough, however this is attributed to pitches that were not available to community use such as those within Fulston’s school field. Some surplus capacity does exist in Sittingbourne, but it goes on to identify that use at specific peak times pitches are at capacity which in reality means that there is no surplus.

Further on page 25 in the Assessment Summary Section it identifies that “Sittingbourne Rugby Club confirm their number of teams is increasing at both senior and junior level. Difficulties with obtaining pitches for all teams means the club will need to look for other options in addition to their base at Gore Court Sports Ground.”

Further on page 60 in the Action Plan it identifies the need to address Sittingbourne’s significantly overplayed pitches”.

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7.15.5. The committee is also asked to note that the strategy was not fully adopted due to difficulties with engagement with some of the National Governing Bodies at the time.

7.16. Conclusion

7.16.1. The proposal adheres to the approved parameter plans and masterplan of the hybrid permission. Its design, layout, appearance, and landscaping are considered acceptable and policy compliant, for the reasons set out in this report.

7.16.2. The proposal would provide a permanent home to Sittingbourne Rugby Club with space for community use secured by the existing S106 legal agreement tied to the hybrid permission. The facility will benefit the community and meet NPPF and local plan policy aspirations for health and wellbeing (Policy CP5) and community facilities (Policy CP 6).

7.16.3. In view of the above, the committee is recommended to grant reserved matters approval subject conditions.

Conditions

1 The development hereby permitted shall be carried out in accordance with the following approved plans:

21.048-002 B Site Location Plan with existing levels
 21.048-150 -Cycle Storage Details
 21.048-010 J Proposed Site Layout Plan
 21.048-012 J – Proposed Site Plan Layout Plan with Levels
 21-100-001 B - Site Access and Tracking Diagram
 21-100-002 B - Internal Layout and Tracking Diagram
 30625A-10-P2-P3 -Proposed Floor Plans and Elevations

Reason: For clarity and in the interests of proper planning.

2 Prior to the construction of the development above ground details of all external finishing materials, including roofing materials and window systems, including reveals, shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: To secure and appropriate design and finish to the development in the interests of the visual amenities of the area.

3 The landscaping scheme and planting specification shown on drawing nos. 7796.LP.1.0 Rev A shall be carried out within 12 months of the completion of the development and maintained in accordance with the Landscape Management Plan by Aspect Landscape Planning dated November 2021 (Ref: 7796.Lan. Man.001). Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be

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replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policy DM14 of the Local Plan 2017.

- 4 Prior to the occupation of the development, a management plan covering the entirety of the operation shall be submitted for approval to the local planning authority. The plan shall include but not be limited to hours of operation and delivery, control of noise from plant and machinery, noise from internal and external activities. The plan should include procedures for response to complaints from residents or the local authority. It should include a review mechanism in response to justified complaints. Once approved the plan shall be implemented to the satisfaction of the local planning authority.

Reason: To safeguard the living conditions of existing and proposed residential neighbours to comply with Policy DM 14 of the Local Plan.

- 5 No external lighting shall be installed until a detailed scheme of lighting has been submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. This scheme shall take note of and refer to the Institute of ILP Guidance Note 01/21 The Reduction of Obtrusive Light (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The scheme of lighting shall be installed, maintained, and operated in accordance with the approved scheme unless the Local Planning Authority gives its written consent to any variation.

Reason: To safeguard the living conditions of residential neighbours and biodiversity to comply with Policies DM 14 and DM 28 of the Local Plan.

- 6 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.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of ground or water pollution from previously unidentified contamination sources at the development site.

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7. No development shall commence [or other specified time period] until the following documents have been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England:
- (i) A detailed assessment of ground conditions (including drainage and topography) of the land proposed for the playing field which identifies constraints which could adversely affect playing field quality; and
 - (ii) Where the results of the assessment to be carried out pursuant to (i) above identify constraints which could adversely affect playing field quality, a detailed scheme to address any such constraints. The scheme shall include a written specification of the proposed soils structure, proposed drainage, cultivation and other operations associated with grass and sports turf establishment and a programme of implementation.

The approved scheme shall be carried out in full and in accordance with the approved programme of implementation [or other specified time frame – e.g., before first occupation of the establishment]. The land shall thereafter be maintained in accordance with the scheme and made available for playing field use in accordance with the scheme.

Reason: To ensure that the playing field is prepared to an adequate standard and is fit for purpose and to accord with Policy DM 17.

8. No development shall commence [or other specified time period] until a schedule of playing field maintenance including a programme for implementation for a minimum period of [five] years starting from the commencement of use of the development [or other specified time period] has been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. Following the commencement of use of the development the approved schedule shall be complied with in full.

Reason: To ensure that the playing field is first established as a functional playing field to an adequate standard and is fit for purpose and to accord with Policy DM17.

9. Prior to the use hereby permitted commencing, details of active electric vehicle charging points, to serve 7 car parking spaces shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be completed prior to first public use of the building and maintained thereafter.

Reason: In the interests of sustainable development to comply with Policy DM 19.

The Council's approach to the application

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

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

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

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



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DEF ITEM 2 REFERENCE NO – 23/501017/FULL		
APPLICATION PROPOSAL		
Erection of a three storey 66no. bed care home for older people (Use Class C2) with associated access, parking and landscaping and ancillary facilities.		
ADDRESS Land West of Barton Hill Drive, Minster-on-sea, Kent, ME12 3LZ		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be consequently necessary and appropriate.		
APPLICATION TYPE – Major Full Application.		
REASON FOR REFERRAL TO COMMITTEE		
Objection from Minster-on-Sea Parish Council		
WARD	PARISH/TOWN COUNCIL	APPLICANT LNT Care Developments
Queenborough & Halfway	Minster-On-Sea	AGENT LNT Construction
DECISION DUE DATE	PUBLICITY EXPIRY DATE	CASE OFFICER
07 March 2023	06 June 2023	William Allwood

1. INTRODUCTION

1.1. This application was initially reported to Planning Committee on 14 September 2023 with a recommendation for approval. The item was deferred by the Planning Committee in order for the following matters to be considered further:

- To allow Officers to discuss improvements with the applicant in terms scale and design to ensure that the building sits more comfortably within the landscape.
- To allow the swept path drawings to be reviewed by KCC as Local Highway Authority, in order that service vehicles can enter and leave the site in a forward gear.
- To allow a response to be sought from the NHS.

1.2. The original Committee Report is included (see Appendix A).

2. RESPONSE TO DEFERRED ISSUES

2.1. In terms of the issues raised at the Planning Committee meeting on the 14 September 2023, and in dealing with the first bullet point above, the applicant has revised and refined the proposals to take on board Members concerns, thus:

- Provided stepped roof features to breaks up the overall massing;

- Incorporate contrasting clay ridge tiles to tie the building in with surrounding dwellings that host clay roofs;
- Introduced half dormer gable end features to add further articulation and layering of the façade and massing;
- Replace rendered elements with horizontal cladding to visually manage how the scale is perceived, with a finish that will better blend the building with the landscape.
- Utilise a buff brick, as is identified for this parcel, to offers a more natural appearance and warmer tone.

2.2. It is considered that these changes are positive, and suitable for this gateway location.

2.3. In terms of the issues raised at the Planning Committee meeting on the 14 September 2023, and in dealing with the second bullet point above, Kent County Council as Local Highway Authority have been consulted on the amended scheme, and do not have any objections, subject to the imposition of planning conditions as set out in this Report. Swept path drawings and justification on trip rates/parking provision were provided at the request of KCC Highways in April 2023.

2.4. In terms of the issues raised at the Planning Committee meeting on the 14 September 2023, and in dealing with the third bullet point above, a consultation response has been received from the Senior Programme Manager in the Strategic Planning and Primary Care Estate Team of NHS Kent and Medway. In this regard, the Senior Programme Manager has advised the following:

At this point in time, we will not be requesting a financial contribution against this application as our internal discussions on any change required to the approach are ongoing.

2.5 Therefore, and in respect of this application at this time, it is not possible to request a contribution towards health care.

3 Conclusion

3.1 The application site is located within a large-scale development site allocated under Policy A12, and which benefits from outline planning permission for 700 dwellings. The use of the site for a well-designed Care Home is considered appropriate in this context and in accordance with the Local Plan.

3.2 Whilst acknowledging the comments and observations of Minster-on-Sea Parish Council, the application has been comprehensively assessed by officers and in addition to this there is no objection from statutory consultees, subject to the imposition of appropriate planning conditions and the satisfactory conclusion of the S106 negotiations.

3.3 An Appropriate Assessment has been adopted by the Council in consultation with Natural England subject to matters set out below, there is no likely significant effect on the Swale Special Protection Areas (SPA) and Ramsar Sites:

- The use of the property is to be restricted to C2 nursing care home.
- The care home shall not be occupied other than by persons of limited mobility who require full time nursing care and/or those who require high dependency dementia care.
- No residential staff accommodation will be provided on site.

- 3.4** The application is therefore recommended for APPROVAL on this basis, subject to completion of a S106 Agreement.

CONDITIONS:

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby approved shall be carried out in accordance with the following approved drawings:

Site Plan as Proposed ME12 3LY - A-03 Rev A

Site Location Plan as Proposed ME12 3LY - A-01

Floor Plans as Proposed ME12 3LY - A-04

Elevations as Proposed ME12 3LY - A-05 Rev A

Reason: For the avoidance of doubt and in the interests of proper planning.
3. No development beyond the construction of foundations shall take place until samples/details of the materials proposed to be used on the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing by the Local Planning Authority

Reason: To ensure a satisfactory appearance to the development in the interests of visual amenity.
4. Prior to the commencement of development hereby permitted, a Construction Management Plan shall be submitted to 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 / signageThe development shall be carried out in accordance with the approved details.

Reason: To protect highway safety and residential amenity locally
5. Prior to first use / occupation of the development, 2no. Electric Vehicle charging points shall be provided to Mode 3 standard (providing a 7kw output). 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>. The charging points shall be maintained in perpetuity.

Reason: For the avoidance of doubt, and to enable the Local Planning Authority to retain control of the development.

6. Prior to the first occupation of the development, the vehicle parking spaces shown on the submitted plans (ME12 3LY - A-03) shall be completed and made available for use and shall be retained for such purposes only thereafter.

Reason: To enable the Local Planning Authority to retain control of the development in the interests of highway safety.

7. Prior to the first occupation of the development, the cycle parking facilities shall be provided as shown on the submitted plans (ME12 3LY - A-03) and thereafter retained for such use.

Reason: For the avoidance of doubt, and to enable the Local Planning Authority to retain control of the development in the interests of highway safety.

8. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk and Drainage Statement prepared by LNT Care Developments (February 2023), together with Care Home General Arrangement ref. 8663-100-001 Rev. D dated 19th May 2023, 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.

9. No building within 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 169 of the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in gardens and other relevant amenity areas will conform to the standard identified by the current version of BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - shall be submitted to and approved in writing by the Local Planning Authority. The assessment should have regard to ProPG: Planning & Noise (2017) and the Acoustics Ventilation and Heating Guide (2020) to ensure that there is a good balance between acoustics, ventilation, and thermal comfort for future occupants. It is expected that higher levels of noise that require windows to be closed to meet BS8233 internal level specifications will need greater ventilation than the minimum standard in the Building Regulations in trying to achieve open window equivalence which will involve user control of ventilation rates to key rooms such as living rooms and bedrooms. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

Reason: To protect the amenity of the proposed care home.

11. Prior to the commencement of the development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The document shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'. The construction of the development shall then be carried out in accordance with the approved methodology.

Reason: To protect the air quality during the construction phase.

12. No development shall take place until a programme of archaeological work in accordance with a written scheme of investigation has been submitted by the applicant and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved scheme.

Reason: To record or safeguard any archaeological evidence that may be present at the site and to comply with the National Planning Policy Framework.

13. Prior to any works commencing, an ecological mitigation strategy must be submitted to the LPA for written approval. The ecological mitigation strategy must be implemented as approved in accordance with a timetable to be included within the strategy.

Reason: In the interests of ecology in accordance with the NPPF.

14. Within 3 months of works commencing an ecological enhancement plan must be submitted to the LPA for written approval. It must provide details of ecological enhancement features to be incorporated into the building and the wider site. The plan must be implemented as approved.

Reason: In the interests of ecology in accordance with the NPPF.

15. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of

a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

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

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

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

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

18. The building hereby approved shall be constructed to BREEAM 'Good' Standard or an equivalent standard and prior to the use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

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

19. Prior to the commencement of development, details of the finished floor levels of the proposed development shall be submitted and approved in writing by the Local Planning Authority and shall include full details of finished floor levels for the proposed building and finished site levels (for all hard surfaced and landscaped areas) in relation to existing ground levels. The development shall thereafter be carried out in accordance with the approved level details.

Reason: For the avoidance of doubt and to ensure a satisfactory form of development.

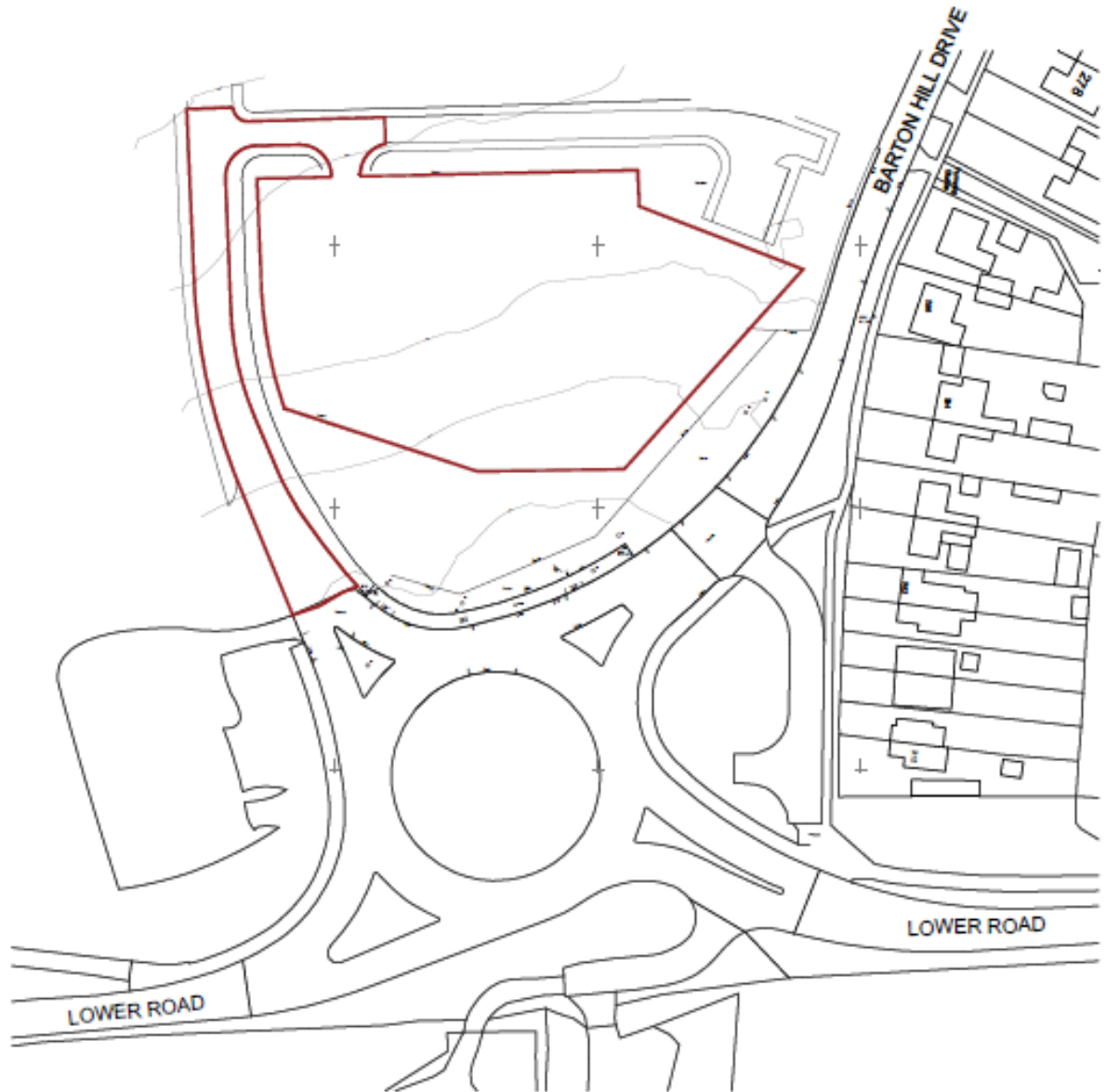
The Council's approach to the application

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

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

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

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



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2.6 REFERENCE NO: 23/501017/FULL		
PROPOSAL Erection of a three storey 66no. bed care home for older people (Use Class C2) with associated access, parking and landscaping and ancillary facilities.		
SITE LOCATION Land West of Barton Hill Drive, Minster-on-sea, Kent, ME12 3LZ		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be consequently necessary and appropriate.		
APPLICATION TYPE – Major Full Application		
REASON FOR REFERRAL TO COMMITTEE Objection from Minster-on-Sea Parish Council		
Case Officer William Allwood		
WARD Queenborough & Halfway	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT LNT Care Developments AGENT LNT Construction
DATE REGISTERED 07.03.2023	TARGET DATE 06.06.2023	CASE OFFICER William Allwood
BACKGROUND PAPERS AND INFORMATION: https://pa.midkent.gov.uk/online-applications/simpleSearchResults.do?action=firstPage		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The Site is located within the urban confines of Minster. It is within a larger strategic development allocation for a minimum of 620 dwellings (Policy A12 – Land West of Barton Hill Drive) and which benefits from outline planning permission (granted on appeal) for up to 700 dwellings (18/503135/OUT). The site is located between the Barton Hill Drive and Lower Road (A2500) roundabout, which is to the south. To the east of the site consists predominantly residential development mainly in the form of two-storey semi-detached and detached homes. To the west of the site is open agricultural land and yet to be developed as part of the wider approval for 18/503135/OUT. To the south of the site beyond the highway (Lower Road A2500) is characterised by open agricultural land. Further west along the A2500 is Sheppey Rugby Football Club.
- 1.2. The Site is approximately 1.1 acres (4,452 sq. m.) and is currently open agricultural arable land. The site is predominately clear of vegetation with a hedgerow protruding into the north of the Site boundary (identified for removal to accommodate development).

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- 1.3. The site is accessible via the Barton Hill Drive and Lower Road roundabout. It is also well-served by level pedestrian/cycle routes, with two bus stops within 100m.
- 1.4. The Site is allocated in the Local Plan for a minimum of 620 dwellings 'Land West of Barton Hill Drive' (Policy Ref A12). This allocation confirms the principle of development for residential uses, and therefore the site is suitable for future development.
- 1.5. The site is located within Flood Zone 1, which is an area with the low probability of flooding and it also within 1 – 2 km of the Medway Estuary and Marshes RAMSAR site and Site of Special Scientific Interest (SSSI), and the Medway National Nature Reserve (NNR).
- 1.6. As noted in the Committee Report dated 28 February 2019 as part of the wider development of a larger site (18/503135/OUT)

“The site... presents an undulating topography, gradually rising from the lowest points at Lower Road, Barton Hill Drive and another located centrally within the site. The land eventually steepens towards a crest at the north-western boundary. The site is visually exposed due to its sloping landform, with long reaching views due south-west across the site from the highest point adjacent to the northern boundary. These views are broken by native species of hedges that form part-field boundaries, although these are sporadically interrupted by trees.”

2. PLANNING HISTORY

- 2.1. 18/503135/OUT: refused and granted on appeal ref: APP/V2255/W/19/3238171, March 2020 for *outline planning permission for the development of up to 700 dwellings and all necessary supporting infrastructure including land for the provision of a convenience store / community facility, internal access roads, footpaths, cycleways and parking, open space, play areas and landscaping, drainage, utilities and service infrastructure works.*
- 2.2. 21/504759/SUB: Approved, 23.09.2022 for *Submission of Details to Part Discharge (Phase 1a) Condition 7 - Design Code and Discharge Condition 8 - Landform parameter plan subject to 18/503135/OUT (APP/V2255/W/19/3238171).*
- 2.3. 23/500161/REM: Pending Consideration, submitted 24.01.2023, *Application for the approval of Reserved Matters for Phase 1A (Appearance, Landscape, Layout and Scale.) Pursuant to conditions 1,12, 26,27,33,34,37,39,40,41,42,43 and 46 of Outline Planning Permission 18/503135/OUT for a development for residential dwellings including landscaping, drainage and earthworks.*

3. PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the erection of a three storey 66no. bed care home for older people (Use Class C2) with associated access, parking and landscaping and ancillary facilities.
- 3.2. The application is for a care home that will be accommodated within a purpose-built three-storey 66-bed residential care facility for older people. It will be situated within a wider site allocated for and delivering new development (LPA ref: 18/503135/OUT), and so it will be surrounded by various uses such as residential dwellings, play areas, open space and

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landscaping, a convenience store (as part of the wider housing development) and community facilities.

APPENDIX A**4. REPRESENTATIONS**

- 4.1. One round of publicity was carried out on 07.03.2023, in which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. 2 letters of representation were received in response. Concerns / objections were raised in relation to the following matters: -
- Who will be funding this, who will be staffing this? Care homes are being closed on Sheppey due to lack of funds and staffing problems. It is for the sake of the government inspector from Bristol, he will look at this as an important opportunity to solve accommodation for the elderly, he certainly won't look into care homes already closing in the area.
 - The application seems a good idea until you look at the details. We already have nursing homes on Sheppey, which are contemplating closing due to lack of funds and difficulty in recruiting staff.
 - The proposed site is in completely the wrong place. The application shows a pleasing building with grounds and garden furniture for the residents to enjoy outside cups of coffee etc., due to the situation of the building the residents will be unable to sit outside or indeed open their windows due to the pollution and noise being discharged from the congested traffic on the totally inadequate and inappropriate A2500 which runs alongside the proposed site.
 - Presumably the applicant - LNT Care Developments will purchase the land from Persimmon if their application is passed. This will presumably mean that Persimmon will continue with their proposed housing on the remainder of the land and continue to build the original allocation of houses on the remaining site, thereby ensuring that the houses will be crammed in closer together with lack of privacy and open green spaces.
 - The current residents of the Isle of Sheppey do not need Nursing Homes or more houses, they just need the land to be used for a wildlife country park.
- 4.3. Minster-on-Sea Parish Council object to the application on the following grounds: -
- The proposal presents as over-intensive development of the site.
 - The care home is situated in the worst possible location.
 - Parking provision is also inadequate.
 - The design, sheer scale and structure of the three-storey building is not in keeping with the street scene. It will also have a detrimental impact on visual amenity.
 - Furthermore, what presents as a very substantial building is positioned between two oversubscribed roads - Barton Hill Drive leading to Minster, Halfway and Sheerness which

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is seriously congested and the A2500 Lower Road to Minster, Eastchurch and Leysdown which suffers from the same fate.

- Consequently, the resultant tailbacks and noise and traffic pollution created by the care home's location will be detrimental to the quality of life and health and wellbeing the future occupants might reasonably be expected to enjoy.
- Put simply, the picture painted within the documentation of an environment that is pleasing with benches outside etc is contrary to the reality that those residents will experience.
- The noise assessment to assess the impact of the existing noise environment on the proposed new care home which referenced an existing noise assessment previously carried out for the wider site is also flawed.
- The Sustainability Statement does not reflect the actual situation either.
- For all these reasons and more, Minster-on-Sea Parish Council urges Swale Borough Council's Elected members to reject the application.

4.4. CONSULTATIONS

Environmental Protection Team MIDKENT Environmental Health: -

4.5. Note the contents of the Air Quality Statement and Noise Assessment that accompanies the application.

4.6. Raise no objection subject to conditions relating to a construction management plan to protect the air quality during the construction phase and noise condition to protect the amenity of the proposed care home.

KCC Contributions: -

4.7. The County Council has modelled the impact of this proposal on the provision of its existing services and the outcomes of this process are set out below and in the attached appendices.

	Per Dwelling (66)	Total	Project
Library Service	£55.45	£3,659.70	Contributions requested towards additional services, resources, and stock at Libraries serving the development, including Minster Library.
Waste	£183.67	£12,122.22	Towards additional capacity at HWRCs and WTS' within the Borough
<i>Highways</i>	<i>Kent Highway Services will respond separately</i>		

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- 4.8. I am satisfied that the contributions requested for library and HWRC Services are not required for this application. The total amount being sought from KCC Strategic Planning will therefore amount to £3,553.00 for the purposes of providing additional capacity at the Sittingbourne WTS to deal with the additional wate generated from the development.

KCC Drainage:

- 4.9. Kent County Council as Lead Local Flood Authority have reviewed the application and have no objection to the proposals, subject to conditions.

Lower Medway Internal Drainage Board: -

- 4.10. The whole site is within the Lower Medway Internal Drainage Board's district and as such, we are particularly interested in the proposed discharge of surface water. The Council may wish to consider using a suitable planning condition to encompass both these recommendations and include for the drainage system's verification on site by a competent engineer.
- 4.11. The Applicant is advised to contact the Board with details of the maximum discharge rate for surface water in litres per second (l/s) from their site and the increase in impermeable area of their site to progress the consenting process. Alternatively, the Applicant should clarify if the surface water scheme is wholly being dealt with under the umbrella of the wider site.

National Highways: -

- 4.12. No objections. Having assessed application 23/501017/FULL we are content that the proposals, if permitted, would not have an unacceptable impact on the safety, reliability, and operational efficiency of the Strategic Road Network in the vicinity of the site.

KCC Highways: -

- 4.13. It is noted that this is application is supported by a Transport Statement (TS) and Travel Plan whereby section 4.2 mentions traffic generation however a Traffic Impact Assessment will need to be submitted to consider the effect that the additional traffic will have on the highway network. The TS states that the change in transport movements on the site has been considered and accepted through the outline planning permission however application 18/503135/OUT was for up to 700 dwellings and included land for provision of a convenience store / community facility and does not appear to include provision for a care home. It is not clear if this facility will be in addition to that granted in the outline application 18/503135 however its impact on the highway network will need to be considered on its own merit. This assessment is to include TRICS to determine the trip rates for the proposed care home.
- 4.14. 25 parking spaces have been allocated and in general the layout appears to be satisfactory. The sizes of the bays meet the minimum required standards and additional room has been provided for the disabled spaces however in order to assess the number of spaces provided for staff, further information will need to be submitted regarding the number of resident staff. SBC parking standards recommend that parking is calculated as 1 space per resident staff and 1 space per 2 other staff. The applicant has given a breakdown of indicative staff and shift patterns which is useful however the exact number of staff per residents is required.

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- 4.15. The plans show an area for bin storage however there are no turning areas within the carpark for refuse vehicles. Swept path drawings will need to be provided showing a freighter entering the site and turning to egress in a forward gear. There shall be no vehicle overrun of kerbs or parking bays and this will need to be shown for an 11.34m refuse vehicle.
- 4.16. In response to Highway comments made on 23rd March, the applicant has provided further details set out in a Supporting Statement which outlines how concerns raised will be mitigated.
- 4.17. Details regarding staff shift patterns has been provided which states the total number of staff on site at any one time. I can confirm staff numbers combined with residents and visitors and a total of 25 spaces is adequate and conforms with the Borough Council's parking standards.
- 4.18. In addition, the applicant has provided further details regarding the traffic impact associated with the proposed care home. It is appreciated that visitors to the facility are unlikely to visit in the network peak hours and therefore can confirm the additional movements for staff is likely to result in an additional 7 movements in the AM peak and 3 in the PM peak. The proposed development therefore would not result in a severe impact on the road network.
- 4.19. Raise no objection subject to conditions relating to parking provision, cycle parking, EV charging and provision of a Construction Management Plan.

KCC Minerals and Waste: -

- 4.20. The County Council has no minerals or waste management capacity safeguarding objections or comments to make regarding this proposal.

Environment Agency: -

- 4.21. No comments to make on this planning application as it falls outside our remit as a statutory planning consultee.

Natural England: -

- 4.22. No objections subject to securing appropriate mitigation for recreation pressure impacts on habitat sites (European Sites)
- 4.23. Natural England notes that the Habitats Regulations Assessment (HRA) has not been provided with the application. As competent authority, and before deciding to give permission for the project which is likely to have a significant effect on a European Protected Site, you must carry out a HRA and adhere to its conclusions.
- 4.24. The applicant is challenging the need for a SAMMS contribution in respect of the development of a Care Home. The LPA have also written to Natural England with a HRA/AA, and agree with the applicant that such a payment is not required in these particular circumstances. Any further correspondence from Natural England will be reported to Committee.
- 4.25. Second consultation: no comment to make on its details.

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Southern Water: -

- 4.26. Southern Water has undertaken a desktop study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network.
- 4.27. This initial study indicates that these additional flows may lead to an increased risk of foul flooding from the sewer network. Any network reinforcement that is deemed necessary to mitigate this will be provided by Southern Water.
- 4.28. Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement.

Kent Police: -

- 4.29. We have reviewed this application in regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF).
- 4.30. Applicants/agents should consult us as Designing out Crime Officers (DOCO's) to address CPTED and incorporate Secured by Design (SBD) as appropriate. We use details of the site, relevant crime levels/type and intelligence information to help design out the opportunity for Crime, Fear of Crime, Anti-Social Behaviour (ASB), Nuisance and Conflict.

KCC Ecology

- 4.31. We are satisfied that sufficient ecological information has been provided to determine the planning application, subject to conditions.
- 4.32. KCC Archaeology: - no comments received.
- 4.33. KCC Commissioning: - no comments received.
- 4.34. SBC Ward Councillors – No comments received.
- 4.35. Asset Engineer (Pipelines): - No comments received.
- 4.36. NHS (SWALE): - No comments received. Officers have contacted the NHS for comment, and any response will be reported to Members.
- 4.37. UK Power Networks: - No comments received.

5. DEVELOPMENT PLAN POLICIES

- 5.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017.**

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- ST1 Delivering Sustainable Development in Swale
- ST2 Development Targets for Jobs and Homes 2014-2031
- ST3 The Swale Settlement Strategy
- ST6 The Isle of Sheppey area strategy
- CP2 Promoting Sustainable Transport
- CP3 Delivering a Wide Choice of High-Quality Homes
- CP4 Requiring Good Design
- CP7 Conserving and Enhancing the Natural Environment – Providing for Green Infrastructure
- A12 Land west of Barton Hill Drive, Minster
- DM6 Managing Transport Demand and Impact
- DM7 Vehicle Parking
- DM8 Affordable Housing
- DM14 General Development Criteria
- DM17 Open Space, Sports, and Recreation Provision
- DM19 Sustainable Design and Construction
- DM21 Water, Flooding and Drainage
- DM24 Conserving and Enhancing Valued Landscapes
- DM28 Biodiversity and Geological Conservation
- DM29 Woodlands, Trees, and Hedges
- DM34 Scheduled Monuments and Archaeological Sites

Supplementary Planning Guidance/Documents

- Developer Contributions (2009)
- Parking Standards (2020)
- Swale’s Landscape Character and Biodiversity Appraisal (2011)
- Swale Landscape Assessment (2019)

6. ASSESSMENT

6.1. This application is reported to the Committee because Minster-on-Sea Parish Council Parish Council has objected to the proposal. Considering these comments, the main considerations involved in the assessment of the application are:

- The Principle of Development
- Size and Type of Housing
- Affordable Housing
- Landscape and Visual

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- Heritage
- Archaeology
- Design of the proposed development
- Ecology
- Transport and Highways
- Air Quality
- Community Infrastructure
- Open Space
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions
- Sustainability / Energy

6.2. Principle

- 6.2.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 6.2.2. The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 6.2.3. The site is within a larger strategic development allocation for a minimum of 620 dwellings (Policy A12 – Land West of Barton Hill Drive). This general area is identified for substantial development growth. The site covers 0.44ha. (1.1 acres) and it has most recently been used for agricultural purposes but is allocated and committed for residential development. Planning permission has been granted for large scale residential development on the wider land. The care home proposed would provide a form of residential accommodation and the principle of such development on an allocated site is acceptable. The development of this part of the site for a Care Home would clearly impact upon the delivery of dwellings on the wider allocated site coming forward as part of subsequent reserved matters applications, but it is considered that the provision of a Care Home is appropriate in the wider context of the development of the site, and would not materially affect the delivery of housing across the remainder of the allocation.

6.3. Size and Type of Housing

- 6.3.1. The Local Plan requires the mix of tenures and sizes of homes provided in any development to reflect local needs. The Local Plan requires developments to achieve a mix of housing types, which reflects that of the Strategic Housing Market Assessment.
- 6.3.2. The proposed care home (C2) is a purpose-built three-storey 66-bedroom residential care facility for older people with associated access, parking, and landscaping. The proposal seeks to accommodate need to cater for a growing elderly population, part of which will need to be met by care homes. The development is also designed to enable the operational care home to provide two types of care, general and dementia care.

6.4. Landscape and Visual Impact

- 6.4.1. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*'. Policy DM 24 of the Local Plan deals with designated landscapes (Part A), non-designated landscapes (Part B), and for all landscapes (Part C); the Policy seeks to conserve and enhance valued landscapes. This application site is however not within a valued landscape and therefore Part B and C of Policy DM24 are applicable.

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6.4.2. Part B of this Policy 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; and
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.

6.4.3 Part C of this Policy states that:

The scale, layout, build and landscape design of development will be informed by landscape and visual impact assessment having regard to the Council's Urban Extension Landscape Capacity Study and Landscape Character and Biodiversity Appraisal SPD, including, as appropriate, their guidelines, and the key characteristics, sensitivity, condition and capacity of character area(s)/landscapes, taking opportunities to enhance the landscape where possible, including the removal of visually intrusive features.

6.4.4 The application site is contained within Local Plan allocation site A12 (Land West of Barton Hill Drive, Minster), within the built-up framework of Minster-on-Sea. The site is however close to the Minster Marshes landscape designation as defined in the Swale Landscape Character and Biodiversity Appraisal 2011. The appraisal advises that the key characteristics of the Minster Marshes are:

- Low lying alluvial marshland
- Generally flat but gently rises to the south east
- Long uninterrupted views
- Limited tree cover includes scattered mature standard poplars and willows as well as scattered blocks of scrub
- Small-scale irregular field pattern enclosed by sinuous drainage ditches
- Remnant marsh containing historic elements such as ditches, counter walls and medieval salt mounds
- Abbey Rise is an important feature in the local landscape
- Important function of visually and physically separating Minster, Halfway and Sheerness

6.4.5 The appraisal continues by stating that the overall landscape condition is poor, and that it has a moderate sensitivity to change.

6.4.6 The site forms part of a much larger allocation for development. The existing planning permission includes substantial landscaping on the southern boundary designed to help mitigate the impact of development on the surrounding landscape. The care home would be set back from this southern boundary and it is noted that the existing housing on Barton Hill Drive extends further to the south towards the more open landscape to the south of the A2500. It is therefore considered that this proposal for a Care Home, located within a Local Plan allocation, would not have a significant impact upon the landscape character of the adjoining Minster Marshes landscape, consistent with the provisions of Policy DM24 of the Local Plan.

APPENDIX A**6.5. Heritage**

- 6.5.1. The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 6.5.2. There are no heritage assets in close proximity to the application site. The proposed design and form of the proposal is considered to be of high quality, which will make a positive contribution to the character of the street scene.

6.6. Archaeology

- 6.6.1. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 6.6.2. Policy DM 34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.
- 6.6.3. No comments have been received to date from Kent County Council Archaeology. However a planning condition to safeguard any archaeology that may be at the site, in line with similar conditions applied under the outline permission.
- 6.6.4. On this basis, the proposal is considered consistent with the provisions of Policy DM 34 of the Local Plan, and the NPPF.

6.7. Character and appearance

- 6.7.1. The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement; under policies CP4 and Policy DM14.
- 6.7.2. The proposed Care Home is designed as a “half-butterfly” form, which creates an attractive layout in the context of the site. The proposed three-storey care home is considered appropriate within its context and the generous plot size will allow for substantive landscaping, creating an attractive frontage. The proposed landscaping will soften the appearance of the building and will provide an appropriate backdrop within the wider site.
- 6.7.3. It is the intention of the applicant to create a landmark building at the approach to the wider development as part of the site allocation. The building's form and orientation will integrate well with the surrounding residential development, to enhance the local area's distinctiveness. Whilst the existing scale of dwellings at Barton Hill Drive is typically at 2-storey, as will the development as part of the wider Reserved Matters on the wider site, a building of 3-storey in scale would not appear unduly incongruous in its context.

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- 6.7.4. It is therefore considered that the proposal is consistent with the provisions of Local Plan policies and the NPPF.

6.8. Ecology

- 6.8.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by policies CP 7 and DM 28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 6.8.2. Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions for the purpose of conserving biodiversity. Furthermore, the National Planning Policy Framework states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible'. The National Planning Policy Framework states that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.'
- 6.8.3. National planning policy aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".
- 6.8.4. In terms of the Local Plan policy DM 28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 6.8.5. KCC Ecology advises that sufficient ecological information has been provided to determine the planning application, subject to conditions as set out.
- 6.8.6. The development includes proposals for a care home within the zone of influence (6km) of the Swale Special Protection Area, and Wetland(s) of International Importance under the Ramsar Convention (Ramsar Site). Swale Borough Council will need to ensure that, if the care home has active residents, the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS). This is 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.
- 6.8.7. 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 still a need for an appropriate assessment to be carried out as part of this application. As previously

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advised, the LPA and the applicant are challenging the need for a SAMMS contribution in the context of a Care Home and are corresponding with Natural England on this basis; any further advice will be provided to Members in updates.

6.9. Transport and Highways

- 6.9.1. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development on locations which are sustainable.”

- 6.9.2. The NPPF also states that:

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

- 6.9.3. Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. The Local Highway Authority have considered the application and advised the following:

In response to Highway comments made on 23rd March, the applicant has provided further details set out in a Supporting Statement which outlines how concerns raised will be mitigated.

Details regarding staff shift patterns has been provided which states the total number of staff on site at any one time. I can confirm staff numbers combined with residents and visitors and a total of 25 spaces is adequate and conforms with the Borough Council's parking standards.

In addition, the applicant has provided further details regarding the traffic impact associated with the proposed care home. It is appreciated that visitors to the facility are unlikely to visit in the network peak hours and therefore can confirm the additional movements for staff is likely to result in an additional 7 movements in the AM peak and 3 in the PM peak. The proposed development therefore would not result in a severe impact on the road network.

I refer to the above planning application and confirm that provided the following requirements are secured by condition, then I would raise no objection on behalf of the local highway authority.

- 6.9.4. On that basis, the proposal is not considered to give rise to any unacceptable highways conditions and would provide sufficient car parking, consistent with the provisions of the Local Plan and the NPPF

6.10. Air Quality

- 6.10.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing, or preventing harmful concentrations of air pollution.

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- 6.10.2. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.
- 6.10.3. The Planning Practice Guidance on Air Quality states that
- “Whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”.*
- 6.10.4. The Local Plan at policy DM 6 sets out that development proposals will 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. The application site is not within an Air Quality Management Area
- 6.10.5. The applicant has undertaken an Air Quality Statement in support of this proposal, this has been reviewed by the Council and sets out measures including Electric Vehicle Charging Points, as well as secure cycle spaces. The submitted Travel Plan also seeks to capitalise on this and the benefits of travel planning by setting targets to reduce single occupancy car journeys and encourage the uptake of sustainable modes of transport with staff and visitors. The proposed measures and initiatives reflect those set out in Planning Practice Guidance and are therefore appropriate to achieve local air quality objectives.
- 6.10.6. The Local Planning Authority acknowledge that the Minster on Sea Parish Council have raised concerns over air quality matters. The application has however been assessed by Mid Kent Environmental Protection and have advised that they have no objections to the proposal, subject to the imposition of conditions as set out.
- 6.11. Open Space**
- 6.11.1. Policy DM17 of the Local Plan sets out that new development shall make provision for appropriate outdoor recreation and play space, including urban parks, children’s play areas, open space for sport, allotments or community gardens proportionate to the likely number of people who will live there. This space should be fully accessible all year round and therefore is generally not appropriate for Sustainable Urban Drainage Systems such as stormwater ditches.
- 6.11.2. The design and density of the development ensures the building sits comfortably within its surroundings. Within the site, the surrounding amenity/green space will be used as secure outdoor amenity space. This approach reflects the community nature of the proposals and maximises opportunities to create an attractive and distinctive setting, with good outlook and daylight for future residents.
- 6.11.3. The proposal is therefore considered consistent with the provisions of Policy DM17 of the Local Plan.

APPENDIX A**6.12. Flood Risk, Drainage and Surface Water**

- 6.12.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in policy DM 21 of the Local Plan.
- 6.12.2. The site is within Flood Zone 1, which has ‘Low Probability’ of flooding from river or sea flooding. This area is most suitable for the proposals. The application is supported by a Flood Risk and Drainage Statement, which has been assessed by Kent County Council as Lead Local Flood Authority (LLFA). The LLFA have considered the applicants additional information, and do not object to the application, subject to the imposition of conditions as set out.
- 6.12.3. These proposals are therefore consistent with Policy DM21 of the Local Plan and the NPPF.

6.13. Contamination

- 6.13.1 The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.
- 6.13.2 The land subject to this application is currently used as an agricultural field.
- 6.13.3 The application has been considered by Mid Kent Environmental Protection, who do not object to the application on the basis of site contamination, given the low risk considering the previous land use.

6.14. Living Conditions*Existing residents*

- 6.14.1. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 6.14.2. Existing dwellings in the immediate area include bungalows and two-storeys of predominately semi-detached form. Many existing dwellings face on / look over Barton Hill Drive. Given the physical separation of the application site to the west of the existing housing to the east and across Barton Hill Drive, there is no prospect of overlooking or overbearing impacts upon existing residents locally.

Future residents

- 6.14.3. New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government’s minimum internal space standards for new dwellings.
- 6.14.4. The Health and Social Care Act 2008 is the current legislation relating to Care Homes, and whilst it does not set out the specific design parameters, it refers to CQC requirements. These involve providing single-room accommodation with en-suite facilities and a generous ratio of communal/recreational space to residents.
- 6.14.5. The amenities of future residents are therefore considered adequate. Although concerns have been raised in respect of noise in close proximity to the proposed Care Home and gardens, the application has been assessed by Mid Kent Environmental Protection on the basis of noise and air quality impacts and no objection is raised to the development, subject to conditions.

APPENDIX A**6.15. Sustainability / Energy**

- 6.15.1. Policy DM 19 of the Local Plan requires development proposals to include measures to address climate change.
- 6.15.2. The application is supported by a Sustainability Statement, which provides a summary of the site's sustainable design, construction, and operational benefits. Policy DM19 states that for major developments BREEAM (very good) should be met.
- 6.15.3. The site is well-served by existing public transport connections, and by foot and bike. The proposals intend to make best use of this to minimise the use of private motor vehicles through the implementation of the submitted Travel Plan. The proposed layout, design, materials and landscaping have been designed to be resilient, minimise energy demand and maximise the benefits of natural heating, cooling and ventilation. Local materials will be sourced where possible and existing planting will be retained and improved with new planting to enhance biodiversity in the immediate area.
- 6.15.4. Appropriate forms of renewable energy (including solar PV panels and Ground Source Heat Pumps) will be used to continually manage the care homes operational viability and resource efficiency. Waste will also be regularly monitored and appropriately managed through construction and operation stages.
- 6.15.5. On this basis, it is suggested that the proposals incorporate sufficient measures to meet the requirements of Policy DM19 of the Local Plan and the NPPF.

6.16. S106 Agreement

- 6.16.1 Kent County Council have advised that the total amount being sought from KCC Strategic Planning will therefore amount to £3,553.00 for the purposes of providing additional capacity at the Sittingbourne WTS to deal with the additional waste generated from the development.
- 6.16.2 Natural England have also requested a SAMMS contribution in respect of the recreational impacts of the development upon nearby European habitat areas. The applicant has produced a Habitat Screening Report i.e. an Appropriate Assessment, and advises that this development is not residential and falls within Class C2 development. It is considered that the care home development will not result in recreational impacts on the designated sites due to the nature of the care home and the residents within. As such no further impacts are predicted because of the development.
- 6.16.3 The Assessment has been forward to Natural England for review, and any further comments will be reported to Committee.

6.17. Conclusion

- 6.17.1. The application site is located within a large scale development site allocated under Policy A12, and which benefits from outline planning permission for 700 dwellings. The use of the site for a well-designed Care Home is considered appropriate in this context and in accordance with the Local Plan..

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- 6.17.2. Whilst acknowledging the comments and observations of Minster-on-Sea Parish Council, none of the statutory consultee's object to the application, subject to the imposition of appropriate planning conditions and the satisfactory conclusion of the S106 negotiations.
- 6.17.3. The application is therefore recommended for APPROVAL on this basis, subject to completion of a S106 Agreement and confirmation from Natural England that a SAMMS payment is not required for mitigation in this instance.

CONDITIONS:

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

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

2. The development hereby approved shall be carried out in accordance with the following approved drawings:

Site Plan as Proposed ME12 3LY - A-03
Site Location Plan as Proposed ME12 3LY - A-01
Floor Plans as Proposed ME12 3LY - A-04
Elevations as Proposed ME12 3LY - A-05

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

3. No development beyond the construction of foundations shall take place until samples/details of the materials proposed to be used on the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing by the Local Planning Authority

Reason: To ensure a satisfactory appearance to the development in the interests of visual amenity.

4. Prior to the commencement of development hereby permitted, a Construction Management Plan shall be submitted to 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

The development shall be carried out in accordance with the approved details.

Reason: To protect highway safety and residential amenity locally

5. Prior to first use / occupation of the development, 2no. Electric Vehicle charging points shall be provided to Mode 3 standard (providing a 7kw output). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved

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ChargePoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-cheme-approved-chargepoint-model-list>. The charging points shall be maintained in perpetuity.

Reason: For the avoidance of doubt, and to enable the Local Planning Authority to retain control of the development.

6. Prior to the first occupation of the development, the vehicle parking spaces shown on the submitted plans (ME12 3LY - A-03) shall be completed and made available for use, and shall be retained for such purposes only thereafter.

Reason: To enable the Local Planning Authority to retain control of the development in the interests of highway safety.

7. Prior to the first occupation of the development, the cycle parking facilities shall be provided as shown on the submitted plans (ME12 3LY - A-03) and thereafter retained for such use.

Reason: For the avoidance of doubt, and to enable the Local Planning Authority to retain control of the development in the interests of highway safety.

8. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk and Drainage Statement prepared by LNT Care Developments (February 2023), together with Care Home General Arrangement ref. 8663-100-001 Rev. D dated 19th May 2023, 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.

9. No building within 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

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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 169 of the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in gardens and other relevant amenity areas will conform to the standard identified by the current version of BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - shall be submitted to and approved in writing by the Local Planning Authority. The assessment should have regard to ProPG: Planning & Noise (2017) and the Acoustics Ventilation and Heating Guide (2020) to ensure that there is a good balance between acoustics, ventilation, and thermal comfort for future occupants. It is expected that higher levels of noise that require windows to be closed to meet BS8233 internal level specifications will need greater ventilation than the minimum standard in the Building Regulations in trying to achieve open window equivalence which will involve user control of ventilation rates to key rooms such as living rooms and bedrooms. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

Reason: To protect the amenity of the proposed care home.

11. Prior to the commencement of the development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The document shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'. The construction of the development shall then be carried out in accordance with the approved methodology.

Reason: To protect the air quality during the construction phase.

12. No development shall take place until a programme of archaeological work in accordance with a written scheme of investigation has been submitted by the applicant and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved scheme.

Reason: To record or safeguard any archaeological evidence that may be present at the site and to comply with the National Planning Policy Framework.

13. Prior to any works commencing, an ecological mitigation strategy must be submitted to the LPA for written approval. The ecological mitigation strategy must be implemented as approved in accordance with a timetable to be included within the strategy.

Reason: In the interests of ecology in accordance with the NPPF.

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14. Within 3 months of works commencing an ecological enhancement plan must be submitted to the LPA for written approval. It must provide details of ecological enhancement features to be incorporated into the building and the wider site. The plan must be implemented as approved.

Reason: In the interests of ecology in accordance with the NPPF.

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

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

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

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

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

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

18. The building hereby approved shall be constructed to BREEAM 'Good' Standard or an equivalent standard and prior to the use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

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

19. Prior to the commencement of development, details of the finished floor levels of the proposed development shall be submitted and approved in writing by the Local Planning Authority and shall include full details of finished floor levels for the proposed building and finished site levels (for all hard surfaced and landscaped areas) in relation to existing ground levels. The development shall thereafter be carried out in accordance with the approved level details.

Reason: For the avoidance of doubt and to ensure a satisfactory form of development.

The Council's approach to the application

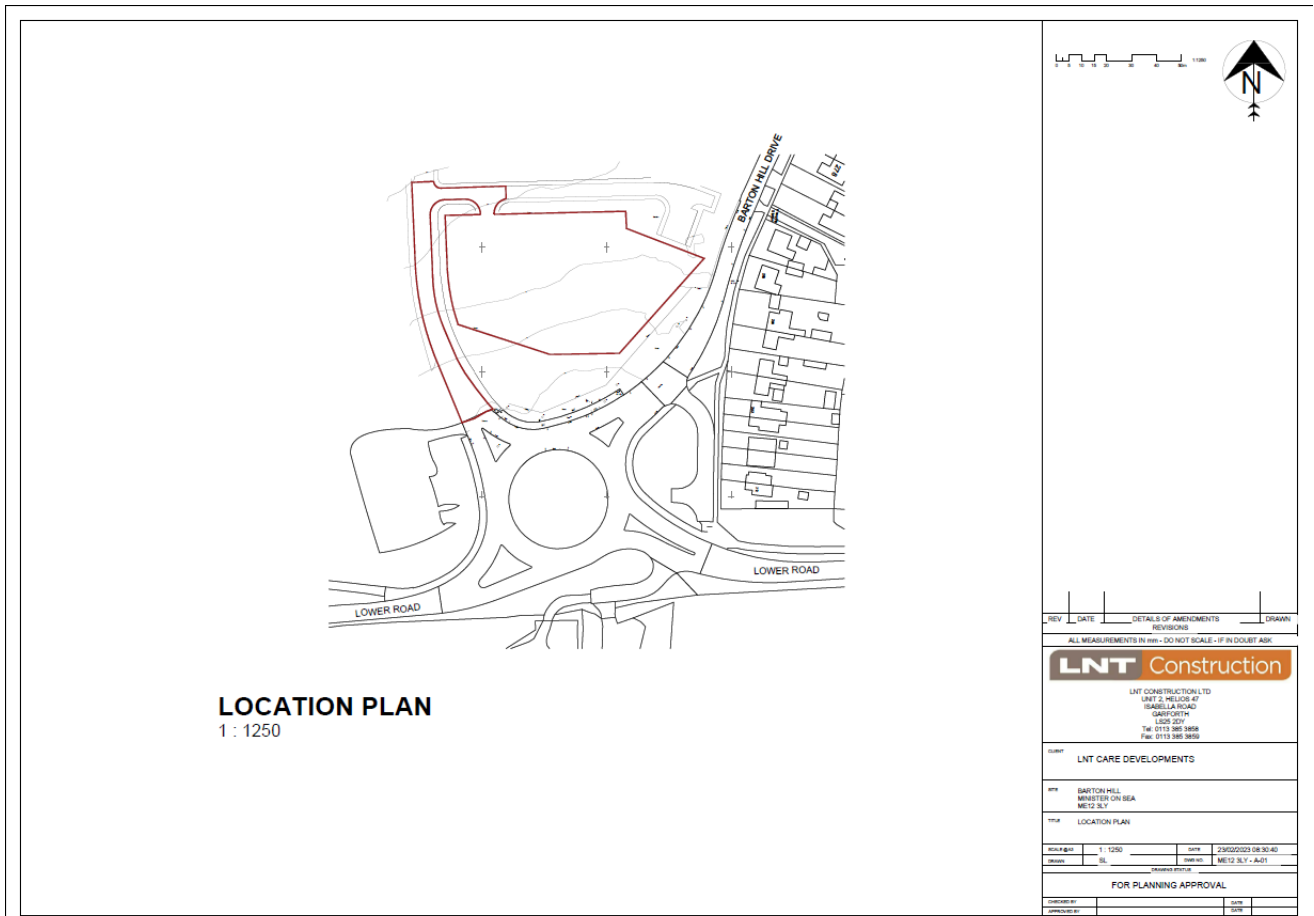
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In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative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

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

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

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



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

Report of the Head of Planning

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

2.1 REFERENCE NO – 23/502301/FULL		
PROPOSAL Demolition of existing dwelling and double garage. Erection of 2no. detached dwellings with garages and parking spaces.		
SITE LOCATION 172 Scarborough Drive Private Street Minster-on-sea Sheerness Kent ME12 2LR		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Minor		
REASON FOR REFERRAL TO COMMITTEE Minster Parish Council object		
CASE OFFICER Megan Harris		
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr N Shaw AGENT IMAC Designs
DATE REGISTERED 02/06/23		TARGET DATE 23/08/23
BACKGROUND PAPERS AND INFORMATION: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RUP7OWTY0XI00		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site is located off Scarborough Drive in Minster Cliffs. It is sandwiched between Westcliff Drive and Kings Road and bounded to the south, east and west by residential dwellings. The whole area gently slopes down toward the north and west along the coastline.
- 1.2 The site is accessed from a gated entrance along Scarborough Drive and was previously a very large single plot containing a detached bungalow located on the northern end of the site. Application 21/501367/FULL granted permission for a first floor extension to the bungalow, which would effectively turn it into a two storey property. This permission has not been implemented but remains extant.

- 1.3 Application 18/502932/FULL granted permission for the erection of four two storey dwellings to the south of the existing bungalow, and construction of this development has begun, and two properties (plots 2 and 3) are complete.

2. PLANNING HISTORY

- 2.1 **23/502615/FULL** – Application granted on 26.07.2023 for ‘Section 73 - Application for minor material amendment to approved plans condition 1 (changes to layout, appearance, site levels to plot 4 with replacement drawings) pursuant to 22/502859/FULL for - Section 73 - Application for minor material amendment to approved plans condition 2 (to allow additional room in roof of plot 3 including five rooflights, reduction in ridge height on main roof, garage roof and rear extension roof, and alterations to fenestration) pursuant to 18/502932/FULL for - Proposed residential development of garden land to provide 4 no. detached 4 bedroom dwellings with associated garaging, parking and shared private driveway (Resubmission of 17/504037/FULL).’
- 2.2 **22/502859/FULL** – Application granted on 20.03.2023 for ‘Section 73 - Application for minor material amendment to approved plans condition 2 (to allow additional room in roof of plot 3 including five rooflights, reduction in ridge height on main roof, garage roof and rear extension roof, and alterations to fenestration) pursuant to 18/502932/FULL for - Proposed residential development of garden land to provide 4 no. detached 4 bedroom dwellings with associated garaging, parking and shared private driveway (Resubmission of 17/504037/FULL).’
- 2.3 **21/501367/FULL** – Planning permission granted on 19.05.2021 for the ‘Erection of a first floor extension to existing bungalow’. Not implemented but remains extant.
- 2.4 **18/502932/FULL** – Planning permission granted on 11.03.2020 for ‘Proposed residential development of garden land to provide 4 no. detached 4 bedroom dwellings with associated garaging, parking and shared private driveway. (Resubmission of 17/504037/FULL).’
- 2.5 **17/504037/FULL** – Planning permission refused on 19.03.2018 for ‘Proposed residential development of garden land to provide 4 no. detached 4 and 5 bedroom dwellings with associated garaging, parking and shared private driveway.’
- 2.6 **SW/98/0632** – Outline permission granted on 11.09.1998 for ‘Outline Application for four dwellings.’
- 2.7 **SW/87/1256** – Planning permission granted on 26.10.1987 for ‘Erection of detached dwelling.’

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks planning permission for the demolition of the existing bungalow at the site and the erection of two dwellings with associated landscaping and parking.

- 3.2 The dwellings will be detached, two storey properties which face southwards, towards Scarborough Drive. They will be evenly spaced on the site, with similar gaps to the side boundaries. The properties will be of the same design and scale, comprised of two storey dwellings with further accommodation within the roof space. The dwellings will have an eaves height of approximately 6.5m and a ridge height of 8.8m and will have a footprint of approx. 1,123sqm.
- 3.3 The scheme was amended during the course of the application to remove dormer windows to the roof slope, in order to reduce the bulk of the development. Each property will benefit from a detached double garage/parking barn which will be set to the front of the properties, whilst to the rear will be a large area of private amenity space. Access to the properties will be taken from the internal access road which runs through the centre of the site.

4. **CONSULTATION**

- 4.1 Two rounds of consultation with neighbours have been undertaken. A site notice was also displayed at the site. Full details of representations are available online.
- 4.2 Two letters of objection were received in relation to the consultation. Concerns were raised in relation to the following matters: -
- Two additional large detached two storey houses are an overdevelopment of the site.
 - Construction of the four properties on the southern side of the site has caused excessive noise, dust and damage to the surrounding properties, including damage to patios, fences, walls and trees due to groundworks close to the side boundaries.
 - Loss of privacy and light.
 - Construction vehicles having to access the site via unmade roads is not suitable.
 - Whether the drainage system is suitable for additional large properties.
- 4.3 Minster Parish Council object to the application, setting out that the height, mass and bulk of the development causes a detrimental visual impact to the area. They also consider the proposal to represent an over-intensive development of the site. Finally, they also note the current management of the site is very poor. During the second round of consultation, the Parish Council confirmed the amended plans do not feel they address their previous objection.

5. **REPRESENTATIONS**

- 5.1 **Environmental Health:** – Recommend condition relating to contamination in the eventuality that any contamination is found during construction works.
- 5.2 **Natural England:** – No objection subject to securing recreational pressure impacts on habitat sites.

6. **DEVELOPMENT PLAN POLICIES**

- 6.1 **Bearing Fruits 2031: The Swale Borough Local Plan 2017**

- ST 1** (Delivering sustainable development)
- ST 3** (The Swale settlement strategy)
- ST 6** (The Isle of Sheppey area strategy)
- CP 3** (Delivering a wide choice of high quality homes)
- CP 4** (Good design)
- DM 6** (Managing transport demand and impact)
- DM 7** (Vehicle parking)
- DM 14** (General development criteria)
- DM 19** (Sustainable design and construction)
- DM 28** (Biodiversity and geological conservation)

6.2 **Supplementary Planning Guidance (SPG)**

Supplementary Planning Guidance Designing an Extension – A guide for Householders
Supplementary Planning Document - Swale Parking Standards

7. **ASSESSMENT**

7.1 This application is reported to the Committee because a Parish Council has objected to the proposal. Considering these comments and the proposal that has been submitted, the committee is recommended to carefully consider the following main points:

- The Principle of Development
- Character and Appearance
- Living Conditions
- Transport and Highways

Principle

7.2 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.

7.3 The National Planning Policy Framework (NPPF) provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

7.4 Policy ST 3 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.

7.5 The application site is located within the built-up area boundary of Minster, and the development proposes the replacement of the existing dwelling on the site with two dwellings, resulting in an uplift in one dwelling. The development would be consistent with

policies ST 1, ST 3, CP 3 of the Local Plan (2017) due to its location within the built-up area boundary, subject to the considerations set out in further detail below.

- 7.6 The Council cannot current demonstrate a 5-year housing supply, and as such Paragraph 11 of the NPPF applies. This states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF taken as a whole.

Character and Appearance

- 7.7 The NPPF attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 7.8 The positioning of the two new dwellings within the site would be in a very similar location to the existing dwelling to be demolished, with roughly even gaps between the new properties and side boundaries, and space for driveways and soft landscaping to the front of the properties. A condition is imposed below to secure the specific landscaping details. The properties would benefit from large plots, and maintain a good degree of space to the site boundaries and to the new houses approved elsewhere on the site.
- 7.9 The development will result in an uplift of one dwelling at the site. Whilst the existing bungalow to be replaced as part of this application has a large footprint, it is only single storey and as such the dwellings proposed would be of greater height and bulk when compared to the existing bungalow. However, it is noted that an application was granted in 2021 (ref. 21/501367/FULL) to add a first floor to the bungalow at the site, and whilst this has not been implemented, it remains extant and as such forms a material fallback position.
- 7.10 When comparing the proposed development to this fallback position, the eaves and ridge height of the proposal are marginally taller than the approved first floor extension to the bungalow. Likewise, the scale and bulk of the two dwellings would not be dissimilar to the scale and bulk of the extended bungalow, if built as permitted.
- 7.11 Taking into account the four new dwellings approved to the south of the site, which are also large detached properties, the proposed development will not appear out of place and does align with the pattern of development across the site. The design of the development is different from the approved four dwellings on the site; however it is acknowledged that these dwellings feature two different styles of dwellings, and as such a mixture of designs is already present at the site. The design of the dwellings is therefore considered to be acceptable and a condition is imposed below to secure external finishing materials.
- 7.12 Views of the new dwellings from Scarborough Drive will be limited due to the considerable set back of the plots from this road, some views of the properties may be possible from the footpaths that run along Minster cliffs to the north of the site. However due to the distance between the new dwellings and the cliff edge (approx. 42m), it is not envisaged that any views of the development will be prominent from the footpaths below when taking into account the set back of the dwellings within the site.

- 7.13 Overall, whilst the concern raised by the Parish Council with regards to the bulk of the development is acknowledged, it is not considered the development will cause any harm to the character and appearance of the site or wider area, and as such the development would accord with policies CP 4 and DM 14.

Living Conditions

Existing residents

- 7.14 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.15 The development will be surrounded by residential properties to the south, east and west. Considering the closest dwelling within the site first, at plot 2, this dwelling is at 90 degrees to the proposed development and at a distance of approximately 19.5m from the new dwellings at the closest point. Due to the orientation and significant separation distance between the development and this neighbouring property, it is not considered that the proposal will cause any harmful overshadowing, overlooking or overbearing impacts – noting that this distance would significantly exceed minimum distances of 11m normally applied by the Council between front and flank elevations of developments. The proposed double garage will be sited close to the boundary with this neighbour, but taking into account the limited height of this outbuilding and its positioning parallel with the end of the garden at plot 2, it is not envisaged the garage will cause any harm to amenity at plot 2.
- 7.16 Due to the even greater separation distances between plots 1, 3 and 4 to the south of the site and the proposed dwellings, it is not envisaged there will be any harmful impacts to the living conditions of occupiers of these plots.
- 7.17 The new dwellings will be sited approximately 17m from Tetherend to the west of the site and 18m from No. 56 Kings Road to the east. This distance is again significantly in excess of the 11m distance normally applied by the Council between front and flank elevations of neighbouring properties, and as such the development is not considered to cause any unacceptable harm to the occupiers of this property by virtue of overshadowing or overbearing impacts. The proposed garage and carport will be sited along the boundary with these neighbouring properties, however given the limited height of these structures and the fact they will abut the end of the rear gardens of these neighbours, they will not result in harm to living conditions.
- 7.18 There are windows in the side elevations of the properties which could result in some overlooking of the properties to the east and west and also mutual overlooking between the two properties. Overlooking from the windows on the ground floor side elevations will be limited by the boundary treatments along the western and eastern boundaries of the site, and also the fence line that will run between both new dwellings, so it is not envisaged that this would be harmful. The first floor side windows which all serve bathrooms could provide views into neighbouring properties due to their elevated height, and as such a condition is imposed below to ensure these windows are obscure glazed and non-opening below 1.7m internally. This will ensure neighbours privacy is protected.

Future residents

- 7.19 New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government's minimum internal space standards for new dwellings. The dwellings would meet the national space standards and all habitable rooms are served by windows which will provide adequate outlook, light and ventilation. The rear gardens are large in depth and will provide a good standard of outdoor amenity space. On this basis, the development will provide a good standard of amenity for future occupiers.
- 7.20 Taking the above into account, the scheme is considered to be acceptable, and would accord with Policy DM 14 of the Local Plan.

Transport and Highways

- 7.21 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

- 7.22 The NPPF also states that:

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

- 7.23 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.
- 7.24 The development will result in one additional dwelling at the site, and the development will utilise the existing access to the site. Given only one additional unit is proposed, it is not envisaged the development will have any harmful impacts on highway safety or convenience.
- 7.25 The new dwellings will have six bedrooms. In line with the Councils Parking Standards SPD, a six bedroom property in this location should provide three spaces. These spaces can be accommodated on the proposed driveways at the properties, and as such the development accords with the parking standards and it is considered that the proposed parking provision is acceptable.
- 7.26 A double garage and double car port are also proposed as part of the development. The internal dimensions of these structures are undersized when compared to the minimum size standards set out in the SPD, however given there is adequate space on the driveways of the two properties to provide the required parking provision, the scale of these structures is not of concern.

SPA Payment

7.27 An Appropriate Assessment is set out below. Since this application will result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development there is no scope to provide on-site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £314.05 per new dwelling. As the development will result in an uplift of one dwelling at the site, only one fee is required. This fee will be secured prior to the determination of the application.

8. CONCLUSION

8.1 On the basis of the above, the scheme is considered to be in compliance with policies CP 4, DM 7, DM 14 and DM 16 of the Local Plan and the SPG. It is therefore recommended that planning permission be granted.

9. CONDITIONS

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved drawings: IMAC-23-06-SK02A, IMAC-23-06-SK03, IMAC-23-06-SK04A, IMAC-23-06-SK05A, IMAC-23-06-SK06A and IMAC-23-06-SK07.

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

3. The dwellings hereby approved shall be constructed and tested to achieve the following measure:

At least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended);

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

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

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

Reason: In the interests of visual amenity.

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

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

6. The area shown on approved plan numbered IMAC-23-06-SK02A as vehicle parking shall be retained for the use of the occupiers of, and visitors to, the dwelling, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

7. Prior to the occupation of the dwellings hereby permitted, one electric vehicle charging point per dwelling shall be provided. All Electric Vehicle chargers must be provided to Mode 3 standard (providing up to 7kw). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

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

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

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

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

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

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

Monday to Friday 0730 – 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.

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

Reason: In the interests of water conservation and sustainability.

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

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

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

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

13. Before the development hereby permitted is first occupied, the window openings on the east and west facing first floor side elevations serving bathrooms shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3 and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such in perpetuity.

Reason: To prevent overlooking of adjoining property and to safeguard the privacy of existing and prospective occupiers.

14. Upon completion, no further development, whether permitted by Class B of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

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

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

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

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

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

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

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

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

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

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

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

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

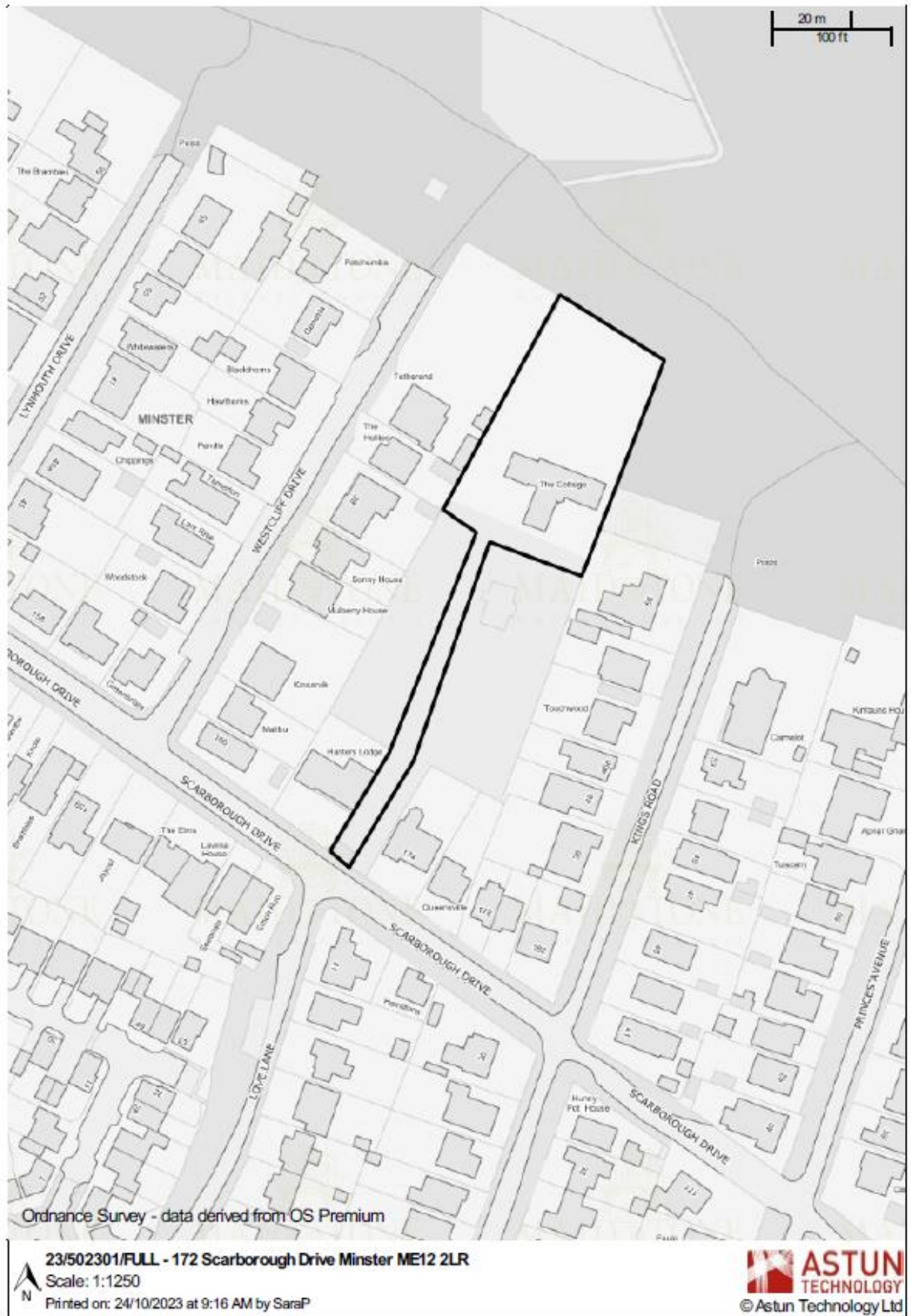
In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (which will be secured prior to the determination of this application) will ensure that these impacts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

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

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), September 2023 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.



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2.2 REFERENCE NO – 23/503705/ADV		
APPLICATION PROPOSAL Advertisement consent for 1no. non-illuminated double sided map totem.		
ADDRESS Railway Hotel Preston Street Faversham Kent ME13 8PE		
RECOMMENDATION Delegate to the Head of Planning to grant advertisement consent subject to appropriate safeguarding conditions, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Advertisements		
REASON FOR REFERRAL TO COMMITTEE The Council is the applicant.		
CASE OFFICER Claire Attaway		
WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mrs Eva Harris AGENT Momentum Wayshowing
DATE REGISTERED 06/09/23	TARGET DATE 01/11/23	
BACKGROUND PAPERS AND INFORMATION: 23/503705/ADV Advertisement consent for 1no. non-illuminated double sided map totem. Railway Hotel Preston Street Faversham Kent ME13 8PE (midkent.gov.uk)		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The site comprises of public highway situated within the Faversham Town Conservation Area where most of the surrounding properties are listed. The site is located opposite the train station and in front of the Railway Hotel Public House. There is currently a finger post sign on the corner of the junction of Station Road and Preston Street that will be removed.
- 1.2 There is a large Sycamore tree growing on the corner of the junction which is not protected by a Tree Preservation Order (TPO).

2. PLANNING HISTORY

23/501317/ADV – Advertisement consent granted for “3 double sided map totems (non-illuminated)”.

3. PROPOSED DEVELOPMENT

- 3.1 Advertisement consent is being sought for a double sided (non-illuminated) pedestrian map totem.
- 3.2 The totem, measuring 2.2m high and 0.5m wide x 0.1m deep, will be made from aluminium and finished in deep bronze (Anolok 547) with a digital printed vinyl and a

replaceable glass panel. The black text on a beige background will identify key destinations and visitor attractions that are shown on the maps. The side of each totem will be engraved with a motif featuring the three gold lions from the Faversham Town Council's Coat of Arms.

- 3.3 The siting of the totem approved under planning reference 23/501317/ADV has been identified as having a potential risk of interfering with the roots of this tree. This application therefore proposes an alternative location should this be the case, but only one totem will be installed in this location

4. **CONSULTATION**

- 4.1 Neighbouring occupiers adjoining the site were notified in writing; a site notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.

- 4.2 One representation was received in relation to the consultation, supporting the application. Comments were made as follows:

- It is better placed being in the line-of-sight for pedestrians using the zebra crossing.

- 4.3 **Faversham Town Council:** support the application.

5. **REPRESENTATIONS**

- 5.1 **KCC Highways and Transportation:** No objection.

- 5.2 **SBC Conservation:** No objection.

- 5.3 **SBC Tree Consultant:** No objection.

6. **DEVELOPMENT POLICIES**

- 6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 - policies:**

ST3 The Swale settlement strategy

CP4 Requiring good design

DM14 General Development Criteria

DM15 New shopfronts, signs, and advertisements

DM32 Development involving listed buildings

DM33 Development affecting a conservation area

- 6.2 **Supplementary Planning Guidance (SPG):**

'The Design of Shopfronts, Signs & Advertisements' and 'Conservation Areas'.

7. **ASSESSMENT**

- 7.1 This application is reported to the Committee because the Council is the applicant. Under the Advertisement Regulations, the only matters that the committee can take into account are as follows:

- Amenity

- Public safety

Amenity

- 7.2 Amenity is usually defined in terms of appearance of the advertisement itself and the characteristics of the area where it is to be displayed but does not include the content or subject matter of the advertisement display. The relevant policies and the Council's SPG entitled 'The design of shopfronts, signs and advertisements' advise that such development should respect the character of the surrounding area and avoid the scenario of creating excessive visual clutter.
- 7.3 The proposed totem has been carefully designed and will assist visitors to the town centre. The existing finger post sign will be removed to avoid an over proliferation of signage within this area. To ensure this takes place, a relevant condition has been recommended. The totem is of the same design as that already approved under planning reference 23/501317/ADV but instead will be positioned by the zebra crossing on Station Road, instead of on the junction of Station Road / Preston Street. As a result, a condition is also recommended to only allow one of these new signs to be installed. The Tree Officer is satisfied that the totem will be sufficiently distanced away from the Sycamore tree to avoid compromising the roots of this tree. As such the proposal is considered to be in accordance with Policies CP4, DM14 and DM15 of the Local Plan.
- 7.4 The Conservation Officer is satisfied that the totems would not be harmful to the visual amenity of the area, and as such will preserve the character and appearance of the conservation area and the setting of the surrounding listed buildings. The proposal is therefore in accordance with Policies DM32 and DM33 of the Local Plan.

Public safety

- 7.5 The proposed totem has been deliberately positioned at a key point where it will be clearly visible to pedestrians. KCC Highways raise no objection to the application on highway safety grounds and have not recommended any conditions.

8. CONCLUSION

- 8.1 The proposal would not result in any harm to amenity or public safety which are the statutory tests here. On the basis of the above, the proposal is considered to be in compliance with policies CP4, DM14, DM15, DM32 and DM33 of the Local Plan and the NPPF.
- 8.2 It is recommended that advertisement consent be granted.

9. RECOMMENDATION

ADVERTISEMENT CONSENT IS GRANTED Subject to the following conditions:

CONDITIONS

- (1) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- (2) No advertisement shall be sited or displayed so as to:

- a. endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - b. obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - c. hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- (3) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
- (4) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
- (5) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: In accordance with the provisions of Regulation 2(1) of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007.

- (6) The existing 'finger post' directional sign located on the junction of Station Road / Preston Street shall be removed within 1 month of the installation of the 'totem' sign approved under this consent.

Reason: In the interests of visual amenities, to preserve the character and appearance of the conservation area and to preserve the setting of heritage assets.

- (7) This consent shall be an alternative to the advert located on the junction of Station Road / Preston Street granted consent on 26 June 2023 under reference 23/501317/ADV and shall not be in addition thereto, or in combination therewith.

Reason: In the interests of visual amenities, to preserve the character and appearance of the conservation area and to preserve the setting of heritage assets.

INFORMATIVES

It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway. It is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website:

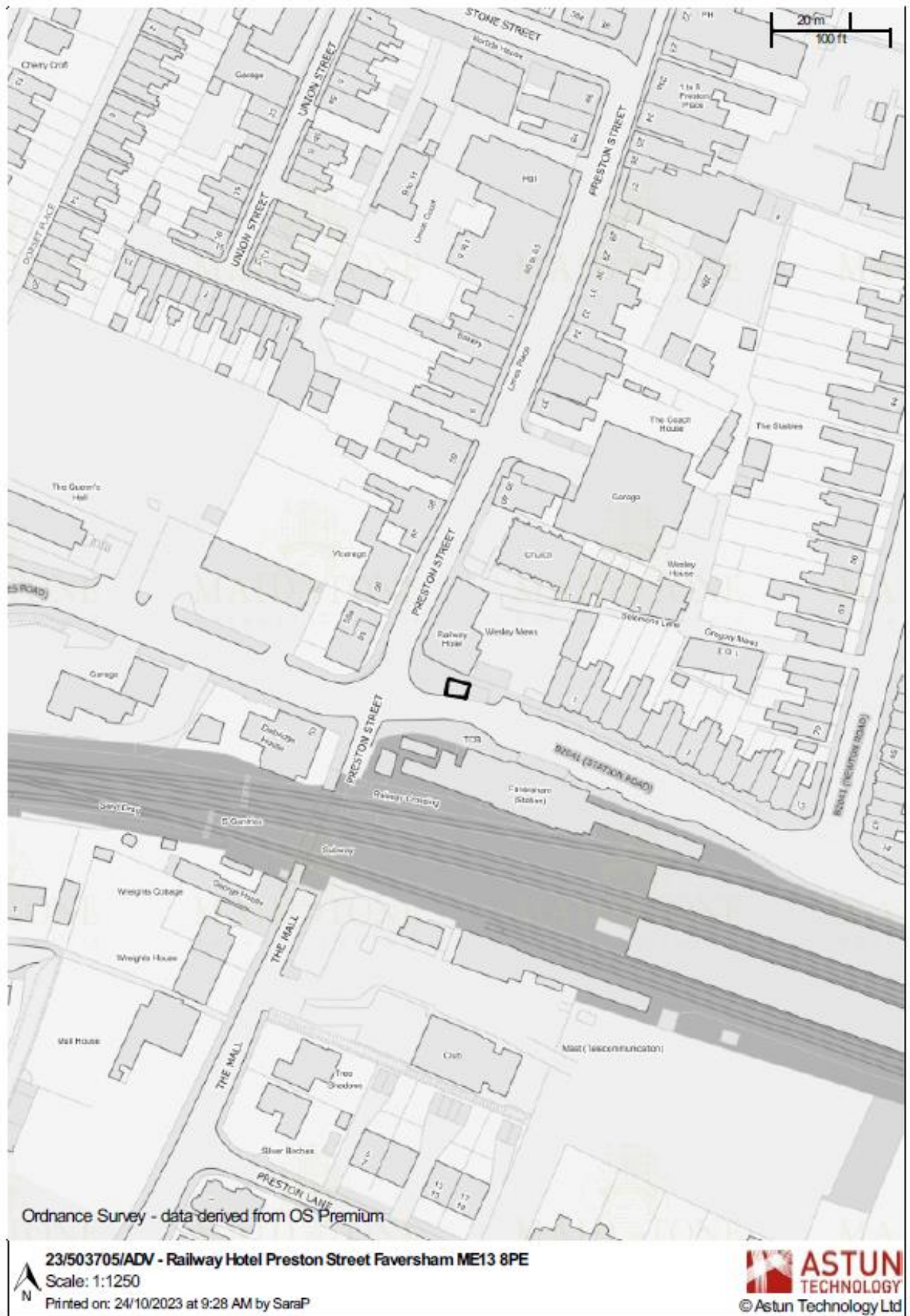
<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>

Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), September 2023 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.



2.3 REFERENCE NO – 23/502412/FULL		
PROPOSAL Demolition of existing dwelling and erection of a replacement two storey dwelling.		
SITE LOCATION 6 Wallbridge Lane Upchurch Kent ME8 7XH		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Minor		
REASON FOR REFERRAL TO COMMITTEE Upchurch Parish Council objection		
CASE OFFICER Emily Clark		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT Lee Antony Davis AGENT Architechnology.Design
DATE REGISTERED 30/05/23	TARGET DATE 18/09/23	
BACKGROUND PAPERS AND INFORMATION: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RV1T2ETYG2A00		

1. SITE LOCATION AND DESCRIPTION

- 1.1 No. 6 Wallbridge Lane is a detached two-storey house located within the built up area boundary of Upchurch. The site is located within a consistent line of dwellings on the north side of Wallbridge Lane. The dwellings at Jubilee Fields bound the property to the north, and the Upchurch Golf Course is located on the southern side of the lane. The residential properties on either side and in the immediate vicinity of the dwelling house are detached but of different designs and ages.
- 1.2 The property benefits from a large-sized garden with a large detached outbuilding, housing a swimming pool and garage/store to the north east boundary. To the front lies a large driveway with in and out accesses and a section of front lawn.

2. PLANNING HISTORY

- 2.1 SW/12/1015 - Planning Permission granted on 17.09.2012 for “*Variation of condition (4) of planning permission SW/11/1150 to permit four mothers & babies (plus staff) at any one time instead of three*” (This permission was implemented but the building has since been converted back to a single residential unit).

- 2.2 SW/11/1150 - Planning Permission granted on 03.02.2012 for “*Change of use to a residential unit caring for young mothers – babies*” (This permission was implemented but the building has since been converted back to a single residential unit).
- 2.3 SW/07/0505 – Planning Permission granted on 27.06.2007 for “*First floor side extension.*”
- 2.4 SW/03/0456 – Planning Permission granted on 06.06.2003 for “*First floor side and rear extension and rear*”
- 2.5 SW/89/1699 – Planning Permission granted on 17.01.1990 for “*Construction of double garage*”
- 2.6 SW/80/1125 – Planning Permission granted on 04.12.1980 for “*Extensions and car port*”

3. **PROPOSED DEVELOPMENT**

- 3.1 This application seeks planning permission for the demolition of the existing dwelling and the erection of a replacement dwelling.
- 3.2 The main two storey core of the dwelling will have a maximum depth of 13.5m, the maximum width of 12.5m, an eaves height of 5.3m and a ridge height of 7.4m. A single storey rear projection is also incorporated and would be slightly wider than the main house. The external materials proposed include render, grey aluminium fenestration and a slate tile roof.
- 3.3 Amendments have been received over the course of the application, reducing the bulk and height of the proposed dwelling.

4. **CONSULTATION**

- 4.1 One round of consultation with neighbours has been undertaken, and notification letters were sent to immediately adjoining neighbouring occupiers. A site notice was also displayed at the site. The full representations are available to view online.
- 4.2 No responses have been received in relation to the consultation.
- 4.3 Upchurch Parish Council object to the application on the grounds that the exterior finish is not in keeping with the local colour palette.

REPRESENTATIONS

- 4.4 **SBC Environmental Health:** – No objection subject to a condition restricting hours of demolition and construction.

5. **DEVELOPMENT PLAN POLICIES**

- 5.1 **Bearing Fruits 2031: The Swale Borough Local Plan 2017**

- ST 1** (Delivering sustainable development)
- ST 3** (The Swale settlement strategy)
- CP 3** (Delivering a wide choice of high quality homes)
- CP 4** (Good design)
- DM 6** (Managing transport demand and impact)
- DM 7** (Vehicle parking)
- DM 14** (General development criteria)
- DM 19** (Sustainable design and construction)
- DM 21** (Water, flooding and drainage)
- DM 28** (Biodiversity and geological conservation)

5.2 **Supplementary Planning Guidance (SPG) / Supplementary Planning Document (SPD)**

Supplementary Planning Guidance – ‘Designing an Extension – A guide for Householders’

Supplementary Planning Document – ‘Swale Parking Standards’

6. **ASSESSMENT**

6.1 This application is reported to the Committee because a Parish Council has objected to the proposal. Considering these comments and the proposal that has been submitted, the committee is recommended to carefully consider the following main points:

- The Principle of Development
 - Character and Appearance
 - Living Conditions
 - Transport and Highways

Principle

6.2 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.

6.3 The National Planning Policy Framework (NPPF) provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

6.4 Policy ST 3 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.

6.5 The application site is located within the built-up area boundary of Upchurch, and the development proposes the replacement of the existing dwelling on the site. The development of a replacement dwelling would be consistent with policies ST 1, ST 3 and

CP 3 of the Local Plan (2017) as adopted, subject to the considerations set out in further detail below.

Character and Appearance

- 6.6 The NPPF attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 6.7 The new dwelling would be greater in bulk and scale than the existing dwelling on the site. Amendments have been received over the course of the application, reducing the bulk and height of the proposed dwelling.
- 6.8 The existing streetscene on Wallbridge Lane comprises dwellings of varying size and form, and are generally of individual design with a variety of external finishes evident. The properties closer to the junction with Oak Lane follow a generally consistent building line. The proposed dwelling would follow this building line.
- 6.9 The proposed dwelling would have a lower ridge height than the existing dwelling by roughly 0.5m and would mirror the existing eaves height. The new dwelling would be greater in width and depth than the existing dwelling. However, a 2m gap to the boundary would be maintained at first floor level to each side boundary, which helps preserve a sense of space between dwellings. Given that the streetscene is varied in the scale and design of house types the proposed scale of the replacement dwelling would not be out of character or harmful.
- 6.10 It is proposed to finish the dwelling in render, with aluminium windows and a slate tile roof. There are a mixture of dwelling styles and a variety of materials along Wallbridge Lane (and Oak Lane nearby), with a number of rendered or painted finishes evident in the existing streetscene. Although the Parish Council's objection on the external finish is noted, given the variety of materials evident in the existing streetscene, the use of render is not considered to be out of character or harmful. A condition is included below to ensure the specific material finishes are submitted for approval.
- 6.11 Taking the above factors into account, the visual impact of the development is considered acceptable and in accordance with the Local Plan.

Living Conditions

Existing residents

- 6.12 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 6.13 The main properties which will be impacted by the development are those to either side of the site. No. 4 Wallbridge Avenue lies to the southeast and sits forward of the proposed dwelling. There is a gap of 7.5m maintained between the properties, and the eaves and ridge height would not exceed those on the existing dwelling. Due to these

factors, it is not envisaged that there will be any significantly harmful impacts to the living conditions of No 4.

- 6.14 To the northwest of the site lies no. 8 Wallbridge Avenue which is a semi-detached bungalow. There are no side windows facing onto the application site and a gap of 2.5m would be maintained between the properties. In addition, the closest part of the dwelling at No 8 is a large attached garage. Whilst the replacement dwelling would extend well beyond the rear elevation of this property, given the habitable area of No 8 is set well away from the site boundary, it is unlikely that there will be any significant harm to the living conditions of this property.
- 6.15 The projection past nos. 6 & 8 is not envisaged to result in harmful overbearing impacts due to the distances between the dwellings, the wide and deep garden area enjoyed by both neighbours and the majority of the rearwards projection being at single storey and contained between a 2m close boarded fencing and outbuilding to the southeast.
- 6.16 To the rear lies no. 5 Jubilee Fields which backs on to the development site. Given the significant garden depth of the site, the proposed development is unlikely to cause any harmful overlooking or other amenity impacts to this property.
- 6.17 There are windows proposed in the ground floor side elevations of the development, serving a gym, study, and utility room. These windows have not been shown as obscure glazed and would offer some views towards adjacent properties. However, it is important to note that there are existing ground floor windows in the side elevation of the existing dwelling in similar positions which serve a kitchen, bedroom, study and lounge. Taking this into account the windows in the replacement dwelling would not cause a level of overlooking beyond that already experienced from the existing windows in the dwelling. On this basis, it is not considered reasonable to impose a condition requiring any of these windows to be obscure glazed, as the development would not make this existing overlooking relationship worse and would cause no greater harm to the living conditions of Nos. 4 or 8.
- 6.18 The windows in the first-floor side elevations serve en-suites and given the elevated views that these windows could offer, it is considered appropriate to condition these particular windows to be obscure glazed. This is included as condition (8) below.
- 6.19 Taking the above factors into account, the impact on neighbouring properties is considered acceptable and in accordance with the Local Plan.

Future residents

- 6.20 New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government's minimum internal space standards for new dwellings.
- 6.21 The property would meet the National Space Standards and all habitable rooms are served by windows which will provide adequate outlook, light and ventilation. On this

basis, the development will provide an acceptable standard of amenity for future occupiers.

Transport and Highways

6.22 The new dwelling will have four bedrooms. In line with the Councils' Parking Standards SPD, a four bedroom property in this location should provide two to three spaces. The driveway to the front of the dwelling is large and can easily accommodate the higher end of this provision, this is therefore in accordance with policies DM 7 and DM 14 of the Local Plan.

7. CONCLUSION

7.1 On the basis of the above, the scheme is considered to be in compliance with policies CP 4, DM 7, DM 14 and DM 16 of the Local Plan. As such, it is recommended that planning permission be granted.

8. CONDITIONS

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

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

(2) The development hereby permitted shall be carried out in accordance with the following approved drawings: 01 Site Location, Block Plans and Photos; 02 Existing and Proposed Elevations; 02.1 Existing and Proposed Floor and Roof Plans; 03 Basic 3D Examples; 04 Existing and Proposed Streetscenes.

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

(3) The dwelling hereby approved shall be constructed and tested to achieve the following measure:

At least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended);

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

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

(4) No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning

Authority, and the development shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity.

- (5) The area shown on approved plan numbered 01 as vehicle parking shall be retained for the use of the occupiers of, and visitors to, the dwelling, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- (6) 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.

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

Reason: In the interests of water conservation and sustainability.

- (8) Before the development hereby permitted is first occupied, the window openings on the east and west facing first floor side elevations serving en suite bathrooms shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3 and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such in perpetuity. No further windows or openings shall be installed in the side elevations or roof slopes of the dwelling.

Reason: To prevent overlooking of adjoining property and to safeguard the privacy of existing and prospective occupiers.

- (9) Upon completion, no further extensions, whether permitted by Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: In the interests of the amenities of neighbouring properties.

- (10) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting

species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

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

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

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

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



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2.4 REFERENCE NO – 22/505369/FULL		
PROPOSAL Proposed removal of containers and brick toilet and erection of data storage facility building with associated off street parking		
SITE LOCATION Former RAF Mast Site Courtenay Road Dunkirk Kent ME13 9LH		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Minor		
REASON FOR REFERRAL TO COMMITTEE Cllr Gould requested the application be reported the Planning Committee for determination.		
Case Officer Alice Reeves		
WARD Boughton and Courtenay	PARISH/TOWN COUNCIL Dunkirk	APPLICANT Mr A Hanton AGENT Origin Power Services Limited
DATE REGISTERED 14.11.2022	TARGET DATE 14.04.2023	
BACKGROUND PAPERS AND INFORMATION: 22/505369/FULL Proposed removal of containers and brick toilet and erection of data storage facility building with associated off street parking Former Raf Mast Site Courtenay Road Dunkirk Kent ME13 9LH (midkent.gov.uk)		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site is a broadly rectangular shaped strip of land with an area of approx. 2784sqm. There are containers and a brick building containing a toilet occupying the site. The site is located in the designated countryside but immediately adjacent to the built up area boundary of Dunkirk and within a Kent Level Area of High Landscape Value and the Bleans Woods Special Landscape Area.
- 1.2 The site is located between the former RAF radar mast which lies to the north and residential dwellings to the south and east. The mast is a grade II listed structure and lies within a secure compound. The existing mast is host to a range of telecommunication equipment. To the northwest of the mast, and mostly beyond the immediate fenced compound is a larger area of land that once formed the RAF Dunkirk Chain Home Radar Station, featuring a range of buildings and groundworks and the remains of other former masts, which is a Scheduled Ancient Monument.
- 1.3 The site occupies part of the frontage of Courtenay Road which is otherwise a residential area.

2. PLANNING HISTORY

16/507586/FULL – Planning permission granted on 09.11.2018 for “*Removal of containers and brick toilet and erection of a data storage facility building with associated off-street parking*”. This permission was not implemented.

SW/14/0393 - Appeal against non-determination dismissed on 03.03.2015 for “*Erection of data storage facility (B8) and permanent historical exhibition*”.

SW/11/1370 – Planning permission refused on 08.02.2013 and dismissed at appeal on 13.11.2013 for “*Erection of data storage facility (B8) and permanent historical exhibition*”.

SW/10/1128 – Planning permission refused on 28.10.2010 for “*Erection of offices and data storage building*”.

This application thus follows four previous applications for a data storage facility on the site, two of these went to appeal. Both appeal decisions state that the principle of this facility on the site is acceptable but the first appeal was dismissed due to impact on the living conditions of no. 7 Courtenay Road, and the second was dismissed as it failed to preserve the setting of the listed mast. Most recently an application for a data storage facility, with amended design, was approved by Members at Planning Committee in 2018. A condition was placed on the previous approval requiring all noise mitigation measures within the submitted Acoustic report being installed prior to first use of the building.

3. PROPOSED DEVELOPMENT

- 3.1 Planning permission is sought for the erection of a two-storey building to be used as a data storage facility with associated parking within the fenced compound. This is the same proposal as previously approved under ref. 16/507586/FULL.
- 3.2 The data storage building would be located in the south-western corner of the site, car parking and a turning area would be provided to the front of the proposed building and would be accessed by the existing access of Courtenay Road. The plant room would be in the basement.
- 3.3 Six parking spaces are proposed as well as one disabled car parking space. Cycle parking facilities are also proposed as well as additional landscaping to the boundary.
- 3.4 The proposed building would be set back from the road by 57m and set 5m away from the southern boundary of the compound beyond which are residential properties on Courtenay Road and London Road. The building would measure 31m x 13m and at its highest point would measure 7.7m in height.
- 3.5 The design takes inspiration from the site’s military history and buildings of that era, whilst taking the form of a modern building using grey aluminium windows and being finished in a grey / green render. The windows to the first floor will be obscure glazed and non-openable other than high level windows.

4. **CONSULTATION**

4.1 Neighbouring occupiers adjoining the site were notified in writing and a site notice was displayed at the application site. Full details of representations are available online.

4.2 Two letters were received in relation to the consultation objecting to the application. Concerns/comments were raised in relation to the following matters:

- Building is two storey and out of place in a rural setting.
- Light pollution.
- Noise of generators and cooling fans.
- Dunkirk has intermittent power cuts and when the diesel generator is used nearby residents will be subject to greater noise pollution as well as air pollution from the generator exhaust.

4.3 **Dunkirk Parish Council:** Objects to the application on the following grounds:

- Uncertainty regarding noise levels which are considered unacceptable;
- Noise report shows ventilation fans at 56db will exceed the 26+4db background noise level and will require silencers;
- Report suggests these potentially have an impact on performance and are untested;
- Use of generator will cause issues of noise;
- Further investigations need to be made regarding noise attenuation examples at other data storage facilities.

5. **REPRESENTATIONS**

5.1 **SBC Conservation:** - No objection.

5.2 **Mid Kent Environmental Health:** - No objection on the basis that the noise feasibility assessment demonstrates that the proposal is technically feasible in this location. It does not amount to a fully developed acoustic design and a condition is required for this to be submitted and approved prior to development, along with conditions related to external lighting and details of ventilation systems. Further discussions took place with Environmental Health regarding additional noise related conditions which were considered appropriate - these include a detailed design of the building and its acoustic performance, the submission of a verification report to ensure all measures set out within the Acoustic Design Report have been implemented, and post completion sound levels. If these sound levels are found to exceed those set out in the Acoustic Design Report, further mitigation measures and an implementation programme will be required to be submitted.

5.3 **KCC Ecology:** - No objection was raised subject to relevant conditions.

- 5.4 **KCC Highways:** - Stated that the proposal does not meet the criteria to warrant involvement from the Highway Authority.
- 5.5 **Historic England:** - Supports the application on heritage grounds. The proposal does not pose harm to the heritage significance of the nearby listed mast or scheduled World War II Chain Home Radar Station. The development has been carefully positioned to avoid any encroachment into key views of the listed tower or the associated transmitter group. Supportive of the additional proposal to provide information boards to inform the public of the heritage significance of the site.
- 5.6 **KCC Archaeology:-** No objection subject to suitable archaeological conditions.

6. **DEVELOPMENT PLAN POLICIES**

6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017**

ST3 (The Swale Settlement Strategy)
CP1 (Building a strong, competitive economy)
CP4 (Requiring good design)
CP6 (Community facilities and services to meet local needs)
DM3 (The rural economy)
DM7 (Vehicle Parking)
DM14 (General development criteria)
DM19 (Sustainable design and construction)
DM24 (Conserving and enhancing valued landscapes)
DM26 (Rural Lanes)
DM28 (Biodiversity and geological conservation)
DM32 (Development involving listed buildings)
DM34 (Scheduled Monuments and archaeological sites)

6.2 **Boughton and Dunkirk Neighbourhood Plan (BDNP)**

Policy BE1 (Proposals for new and expanded businesses)
Policy BE2 (Landscape and heritage character for new commercial development)
Policy BE3 (Vehicle parking for new commercial development)
Policy E7 (Preciously developed sites)
Policy E8 (Biodiversity Net Gain)
Policy E9 (Local distinctiveness)
Policy E10 (Design)

6.3 **Supplementary Planning Document: Swale Borough Council – Parking Standards 2020**

7. **ASSESSMENT**

7.1 This application is reported to the Committee at the request of Cllr Alastair Gould (Ward Member). The main considerations involved in the assessment of the application are:

- The Principle of Development
- Landscape and Visual
- Heritage
- Design of the proposed development
- Ecology
- Transport and Highways
- Living Conditions

Principle

7.2 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.

7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

7.4 The principle of this type of development has been accepted by two Planning Inspectors in their decisions and by Members in approving the most recent application. It is acknowledged that the site is outside the built-up area boundary and as such is subject to rural restraint policies. It is explained in the submitted statements why this site is suitable and such arguments have been accepted by Planning Inspectors and this Council previously. The wider site is rare in that it contains the historic listed mast which has a clear line of site to central London, and in close proximity to the A2/M2 corridor which has a fibre optic cable linking the site to central London. This makes the site uniquely suitable for secure data storage and, according to both Planning Inspectors and the Council previously, suitable for this use, subject to other matters being acceptable.

7.5 Whilst the fenced compound is located in the designated countryside it is flanked on three sides by development and is previously developed land. It is considered that this site is not particularly sensitive as the built up area boundary wraps around the site to the south and east. The NPPF at paragraph 85 supports the reuse of brownfield sites and encourages this irrespective of whether or not they are located in the countryside, and is supportive of modern communications development. Additionally, the BDNP, at policy BE1 is supportive of proposals upon previously developed sites. On the basis of the above the principle of development is acceptable in this location.

Landscape and Visual

- 7.6 The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*'. Policy DM24 of the Local Plan seeks to conserve and enhance valued landscapes and states that conservation and enhancement of the landscape needs to be demonstrated. The site itself is located within an Area of High Landscape Value (AHLV) - Kent Level.
- 7.7 As stated above, this is previously developed land and adjacent to an existing Grade II listed Mast. The proposed development is in keeping with the existing use of the wider site. Further landscaping to the site, secured by condition below, will ensure that the proposed building sits comfortably on this parcel of land and will soften its appearance within the landscape. On this basis, and particularly taking into account the context of this site it is considered that the proposal complies with policy DM24 as the existing landscaping within the AHLV will be enhanced.

Heritage

- 7.8 The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.9 The proposed building has been sited to avoid any encroachment into key views of the listed mast or the associated transmitter group which is a Scheduled Monument site. The design of the proposed building seeks to blend with the utilitarian form of the existing and former buildings and the overall character of the site.
- 7.10 The proposed data storage centre would be dependent on the continued existence of the listed mast to enable wireless data transfer, and to that extent the development should help to sustain maintenance of the mast. The development is justified on its own merits due to the suitability of the location for telecommunications based development.
- 7.11 The submitted Heritage Statement and site plan details the siting of an information board to outline the heritage significance of the site and the part it played in war efforts during WWII.
- 7.12 In considering the impact of this development upon designated heritage assets, Members should note that the Council's Conservation Officer raises no objection to the proposal whilst Historic England support the proposals. Based upon the above it is concluded that proposal preserves the setting of the Grade II Listed structure and the Scheduled Ancient Monument in accordance with policies DM32 and DM34 of the Local Plan and the NPPF.

- 7.13 In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

Design of the proposed development

- 7.14 The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 7.15 It is considered that the proposed design fits with the use for which the building will be used. The immediate area is surrounded by modern housing and the proposed finish of the building includes modern materials and different roof heights to add contrast and interest. The design is suitable for the location and the height is consistent with that of nearby dwellings. Whilst the render colour of grey/green has been suggested in the submission, a condition has been recommended below to require samples of the colour finish ensuring that this will sit well in the surroundings. As a result, the scheme is considered to accord with policy CP4 of the Local Plan 2017 and the NPPF.

Ecology

- 7.16 The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by policies CP 7 and DM 28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 7.17 Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions for the purpose of conserving biodiversity. Furthermore, the National Planning Policy Framework states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible'. The National Planning Policy Framework states that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.'
- 7.18 National planning policy aims to conserve and enhance biodiversity, and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".
- 7.19 In terms of the Local Plan, policy DM 28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

7.20 Policy E9 of the Boughton and Dunkirk Neighbourhood Plan also requires development within the plan area to demonstrate a 10% biodiversity net gain. This was not originally addressed within the application and was requested by Officer's. A Biodiversity Report was subsequently submitted which has demonstrated that a 17.22% biodiversity net gain is achievable on site. This will be achieved by:

- Managing grassland in zones on rotation
- Grassland enhanced by sowing the grassland with a shade growing, meadow wild flower mix
- 134.5m of native hedgerow to be planted on the boundaries
- Locally sourced, native trees to be planted in the treeline including oak, beech, wild cherry, crab apple and holly.

7.21 After receipt of the Biodiversity Report, KCC Ecology were re-consulted and advised that acceptable ecological information has been provided to determine the application, subject to conditions as set out below. This includes a condition requiring the submission of a Biodiversity Gain Plan and Biodiversity Management and Monitoring Plan to include 30 year objectives, management responsibilities, maintenance schedules and methodology to monitor how the net gain is progressing. As a result, the scheme is compliant with policy DM28 of the Local Plan 2017 and policy E9 of the Boughton and Dunkirk Neighbourhood Plan and the NPPF.

Transport and Highways

7.22 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

7.23 The NPPF also states that:

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

7.24 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.

- 7.25 The data storage building is not a use that would require a high number of vehicle movements. It is anticipated that approximately seven employees will work at the site on a rota basis and with proposed off road parking for seven vehicles (including one disabled space and cycle parking), the proposal is not considered to contribute to any issues regarding highway safety and convenience in the local area.
- 7.26 Although in response to the consultation KCC Highways have stated that this development falls below their threshold for responding, it is noted that KCC Highways raised no objections in relation to the previously approved scheme for the same development, subject to a number of conditions which have again been recommended below. As a result, the proposed development is in accordance with policy DM7 of the Local Plan, policy BE3 of the Neighbourhood Plan and the Council's adopted Parking standards.

Living Conditions

- 7.27 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.28 It is not considered that the proposal would result in significant harm to the living conditions of local residents by way of being overbearing or giving rise to a loss of daylight / sunlight as the proposed building, whilst on a site almost surrounded by residential properties, would be set back in the corner of the site, approximately 24m from the nearest residential dwelling. The windows at first floor level would be obscure glazed and only high-level windows would be openable to ensure no overlooking.
- 7.29 The noise report submitted by the applicant concludes that the impact of noise can be mitigated through detailed design. Following consultation with the Council's Environmental Protection team it is concluded that the proposed facility is technically feasible in this location. In order to ensure that a scheme operates within acceptable noise levels a fully developed acoustic design will be required to be submitted prior to the commencement of development. In addition, a condition is also recommended requiring a noise verification report to demonstrate that noise mitigation measures in the approved acoustic design have been implemented. A further condition is also recommended to require the submission of a post installation sound assessment (within one month) to ensure that the noise levels are not being exceeded. This is seen as an extremely robust set of conditions to ensure that noise levels are controlled and that the living conditions of the occupants of nearby dwellings are adequately protected. Therefore, subject to this, and conditions related to details of any ventilation equipment, details of external lighting and standard construction hours the Council's Environmental Health Team raise no objection. As a result, the scheme complies with policy DM14 of the Local Plan in terms of its impact upon living conditions.

Archaeology

- 7.30 The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.31 Policy DM 34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.
- 7.32 The site is located within an area of archaeological importance. The County Archaeological Officer has raised no objection to the application subject to a condition being imposed on any permission for the implementation of a programme of archaeological work in accordance with a written specification. This condition is included below and as result the scheme complies with policy DM34 of the Local Plan.

Sustainability / Energy

- 7.33 Policy DM19 of the Local Plan requires development proposals to include measures to address climate change. Specifically, the policy sets out that all new non residential developments (under 1,000sqm) will aim to achieve BREEAM 'good' as a minimum. On this basis a condition is imposed to ensure that this is achieved and as such, the proposal complies with policy DM19.
- 7.34 As well as policy DM19 of the Local Plan requiring development proposals to include measures to address and adapt to climate change, the Council's Car Parking SPD states that non-residential uses with off-street parking are required to provide 10% Active Charging Spaces with all other spaces to be provided as Passive Charging Spaces. A condition to secure at least one EV Charging point to comply with this is included below.

8. CONCLUSION

- 8.1 Whilst the footprint of the proposed building is more substantial than the residential dwellings in the area, these houses are all some distance away from the proposed development and the proposal is of a comparable height to the two storey houses. In the setting of the mast, which is considerably taller, the proposed building will have its bulk reduced in appearance as the massing is broken up into different forms and articulated into vertical and horizontal art-deco elements.
- 8.2 The IT functionality and the mid-20th Century aspirations of the architectural language are not at odds with the historic character of the listed building. These IT communication systems reflect something of the historic use of the RAF mast. No sustainable objections to the principle of the use of the building on the site on design or conservation grounds have been identified and the overall approach to the design is acceptable. Historic

England and the Environmental Protection Team have found no reasons to object to the scheme on heritage or amenity grounds.

- 8.3 The proposal represents an opportunity for technological growth, and the use of a brownfield site is encouraged by the NPPF and the Boughton and Dunkirk Neighbourhood Plan. The proposal would also lead to the creation of seven jobs, which is supported by both the Local Plan and the NPPF. Taking all these factors into consideration, it is recommended that planning permission is granted subject to 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 the following approved drawings:

1078/101D, 1078/102D, 1078/103D, 1078/104C and 1078/105C.

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

- (3) The area shown on drawing 1078/101D as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the first use of the development hereby permitted.

Reason: in the interests of highway safety and convenience.

- (4) Prior to the commencement of development a Construction Method Statement shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

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

- (5) The first 5m of the access from the edge of the highway shall be laid to a bound surface.

Reason: In the interests of highway safety.

- (6) The entrance gates to the access shall open away from the highway and be set back a minimum of 5.5m from the edge of the carriageway.

Reason: In the interests of highway safety.

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

Reason: In the interests of visual amenity.

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

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

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

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

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

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

- (11) All mitigation for cotoneaster, reptiles, bats, and breeding birds will be carried out in accordance with the details contained in Section 4 of the 27th October 2022 Corylus Ecology, Preliminary Ecological Appraisal and Bat Building Report.

Reason: In the interests of preserving and encouraging biodiversity.

- (12) No development beyond the construction of foundations shall occur until a Biodiversity Gain Plan and Biodiversity Management and Monitoring Plan (to ensure that there is at least a 17.22% net gain in biodiversity as a result of the development, and the inclusion of habitat features) have been submitted to and agreed in writing by the Local Planning Authority.

The Biodiversity Gain Plan shall include a detailed planting plan, durable bird and bat boxes aimed at species of conservation concern and a review (and where required, update) of the Biodiversity Net Gain Report and Small Sites Metric Calculation Tool Spreadsheet Version 4.0 by Corylus Ecology, dated 18th July 2023 and showing a 17.22% net gain respectively.

The Biodiversity Management and Monitoring Plan shall include 30-year objectives, management responsibilities, maintenance schedules and a methodology to monitor how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed.

The Biodiversity Management and Monitoring Plan 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.

Reason: In the interests of preserving and encouraging biodiversity.

- (13) No external lighting shall be installed until a detailed scheme of lighting has been submitted to, and approved in writing by the Local Planning Authority. This scheme shall take note of and refer to the Institute of ILP Guidance Note 01/21 The Reduction Of Obtrusive Light (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The scheme of lighting shall be installed, maintained and operated in accordance with the approved scheme.

Reason: In the interests of residential amenity.

- (14) No dust or fume extraction or filtration equipment, or air conditioning, heating or ventilation equipment shall be installed until full details of its design, siting, discharge points and predicted acoustic performance have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

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

Reason: In the interest of visual amenity.

- (16) All first floor windows in the building shall be obscure glazed and non-opening apart from those parts above 1.7m above finished internal floor level.

Reason: In the interests of residential amenity.

- (17) Prior to first use of the building information boards relating to the history and significance of the site shall be installed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

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

- (18) Prior to the commencement of the development, a detailed design of the facility, along with the acoustic performance of all components associated with the facility and mitigation measures to be employed (an Acoustic Design Report), shall be submitted to and approved by the Local Planning Authority. The design shall demonstrate that the nearest sensitive receptors shall not be adversely affected by noise generated by the development.

Reason: In the interests of residential amenity.

- (19) Prior to first use of the development, a Verification Report shall be submitted to and approved in writing by the Local Planning Authority which demonstrates that all relevant noise mitigation measures recommended in the approved Acoustic Design Report have been implemented.

Reason: In the interests of residential amenity.

- (20) Within 1 month of first use of the Data Storage Facility, post installation sound level assessments shall be undertaken and the results submitted to the Local Planning Authority.

If the results of the post installation sound level assessments show the specified sound levels at the specified receptors identified are exceeded, further mitigation details and a timetable of implementation shall be submitted for the approval of the Local Planning Authority within 2 months of the first use of the Data Storage Facility. The approved further mitigation details shall be installed to the approved timetable and retained thereafter.

Reason: In the interests of residential amenity.

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

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

Reason: In the interests of residential amenity.

- (22) The use of the building hereby permitted shall be restricted to the electronic storage of data and it shall not be used for any other storage or distribution purpose (within Class B8) or for any other purpose including any uses otherwise provided for by the operation of the Town and Country Planning (Use Classes) Order 1987 (as amended) or The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

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

- (23) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in

accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

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

- (24) Prior to the use of the development hereby permitted commencing, 1 of the parking spaces shall be fitted with an active electric vehicle charging point; with the remainder provided as passive charging spaces.

All Electric Vehicle chargers provided must be to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wi-Fi 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 sustainable development and encouraging sustainable modes of travel.

- (25) The building hereby permitted shall be constructed to meet a minimum of BREEAM "Good" Standard or an equivalent standard, and prior to first use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

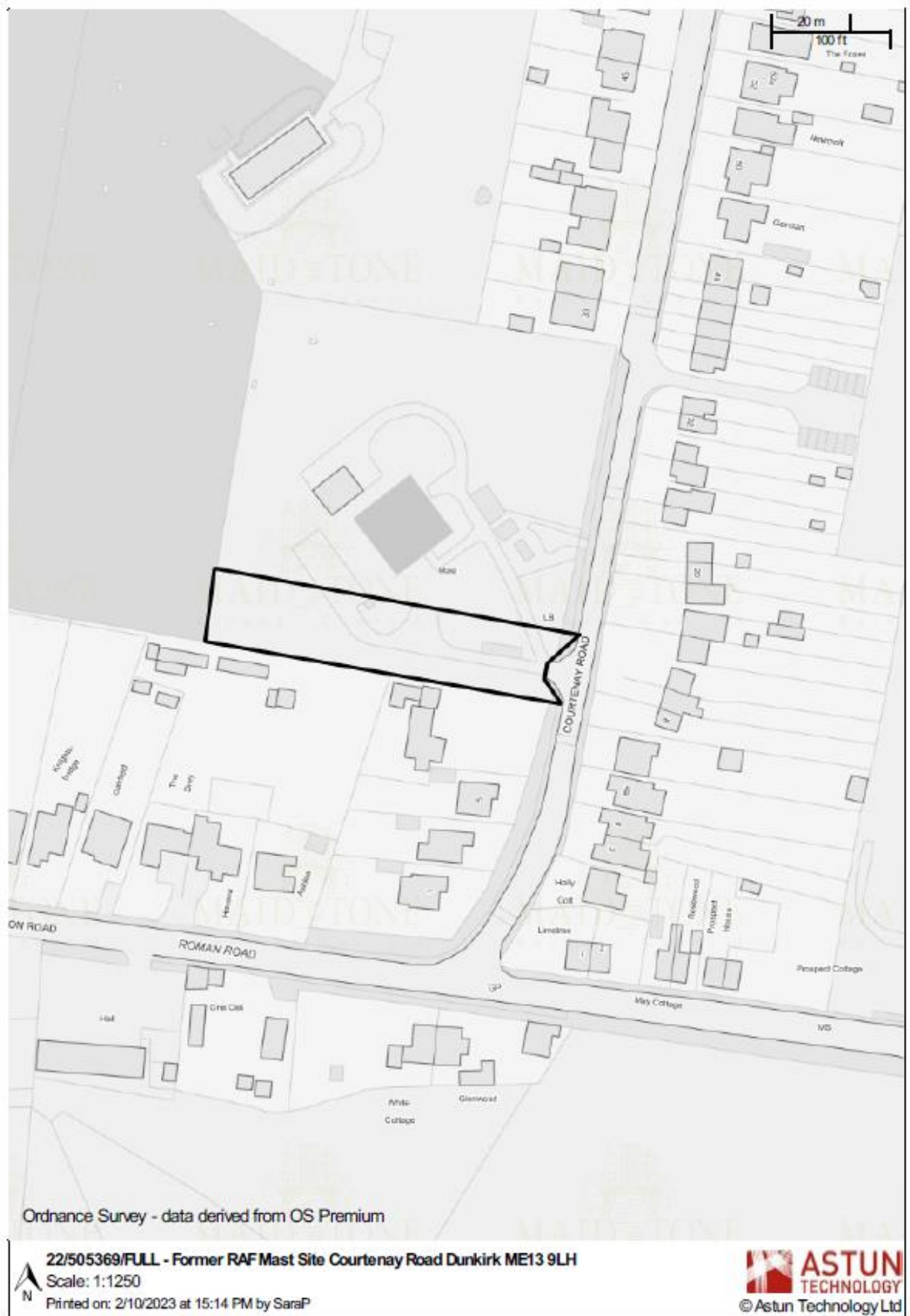
Reason: In the interests of energy efficiency and climate change.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), September 2023 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance:

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



PLANNING COMMITTEE – 9 NOVEMBER 2023

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO – 22/505646/OUT		
PROPOSAL Outline application with access being sought for the erection of up to 290no. dwellings, the formation of a new means of access onto Minterne Avenue, new footpaths and cycle routes, the creation of new surface water drainage, new landscaping and habitat creation, ground works and other infrastructure.		
SITE LOCATION Land At Ufton Court Farm, Tunstall.		
RECOMMENDATION Refuse		
APPLICATION TYPE <i>Large Major Other</i>		
REASON FOR REFERRAL TO COMMITTEE Cllr Clarke has requested that the application be reported to the Planning Committee.		
Case Officer Simon Dunn-Lwin		
WARD West Downs	PARISH/TOWN COUNCIL Tunstall and Borden	APPLICANT Hallam Land Management Ltd AGENT LRM Planning Ltd.
DATE REGISTERED 19/12/2022	TARGET DATE 15/03/2023	
BACKGROUND PAPERS AND INFORMATION: <u>22/505646/OUT Outline application with access being sought for the erection of up to 290no. dwellings, the formation of a new means of access onto Minterne Avenue, new footpaths and cycle routes, the creation of new surface water drainage, new landscaping and habitat creation, ground works and other infrastructure. Land At Ufton Court Farm Tunstall Kent (midkent.gov.uk)</u>		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site is an existing commercial orchard measuring approximately 27.5 hectares in area and located to the south of Minterne Avenue and Woodside Gardens and to the west of Sterling Road. Agricultural fields and allotments lie beyond Starveacre Lane to the west and south. The site is situated approximately 2km to the southwest of Sittingbourne Town Centre. Several public footpaths run along the edges of the site in the north, east and south.
- 1.2. The site borders the rear gardens of houses on Minterne Avenue, Woodside Gardens, Sterling Road and Hale Road. Public footpaths ZR140 and ZR143 run along the southern border with agricultural land beyond. ZR136 runs along the eastern boundary from Woodside Gardens down to Sterling Road in the south for approximately 300m behind residential properties

located in the latter. Starveacre Lane which is a farm track forms the western boundary and provides access into the orchard at its southern end where there is a single storey barn and a silo. Allotments are located to the west side of Starveacre Lane and to the south side of Riddles Road.

- 1.3. The site is located mainly within the parish of Tunstall, but part of the north and an inverted triangular area of land on the north western boundary of the site falls within the parish of Borden. In the wider context, the site is surrounded by the built confines of Sittingbourne to the north and east, and by mainly agricultural land to the west and south. and the site is approximately 300m north of Tunstall hamlet and 300m east of Harman's Corner (which forms part of the village confines of Borden). The site is situated within Flood Zone 1 with a low probability of flooding.
- 1.4. The site is not allocated for development within the local plan and falls outside of any built confines and within the countryside. It is affected by the following Local Plan designations: -
 - Part of the site in the north sits within the Kent Minerals Brickearth Area
 - Outside the built up area boundary of Sittingbourne (Policy ST3)
 - The southwestern corner of the site abuts the northern boundary of the Tunstall Conservation Area (Policy DM33).
 - Important Local Countryside Gap (Policy DM25).
 - Grade 1 to 3 agricultural land (Policy DM31)
 - Within the SPA 6km buffer for SAMMS (Policies CP7 and DM28).

2. PLANNING HISTORY

- 2.1. There is no recent planning history associated with the site. There is an appeal decision from 1994 listed below.

SW/92/0747

Residential development of 149 dwellings to cater for first time buyers, local and other needs together with community and other associated facilities and 11 acre landscaped area on land between Riddles Road and Stirling Road, Sittingbourne, Kent.

Application called-in by the Secretary of State and refused on 25/08/1994.

3. PROPOSED DEVELOPMENT

- 3.1. Outline planning permission is sought for the erection of up to 290no. dwellings, the formation of a new means of access onto Minterne Avenue, new footpaths and cycle routes, the creation of new surface water drainage, new landscaping and habitat creation, ground works and other infrastructure.
- 3.2. The proposed main vehicular access to the site is from Minterne Avenue where a new roundabout will be formed at the junction of College Road/Riddles Road. The bulk of the build development is located to the east and southern portions of the site adjoining existing built development in Woodside Gardens and Sterling Road as shown on the illustrative masterplan layout. The build development will cover approximately 33% of the site area with the remainder retained as open space with landscaping and trees to mitigate the impact on the open

countryside. The layout and indicative heights are discussed further below in the design section.

4. REPRESENTATIONS

4.1. One round of notification and publicity has been undertaken, during which 403 letters were sent to neighbouring occupiers; site notices were displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.

4.2. A total of 191 letters of representation were received in relation to the consultation, 190 of which objected to the application with one neutral response. Concerns were raised in relation to the following which are summarised: -

- Impact on the local highway network, including Riddles Road – Traffic congestion.
- Increase in traffic levels will increase traffic accidents e.g., lack of crossings, traffic bottlenecks – highway safety.
- Air pollution from traffic emissions
- Traffic noise and disturbance
- Insufficient parking provision
- Requirement for safe access into the site
- Pedestrian safety concerns due to absence of pavements on Riddles Road
- Impact on Public Rights of Way.
- Exacerbate public transport provision
- Impact on infrastructure such as education/ healthcare social services with insufficient capacity
- Impact on the existing fields, paddocks, and the loss of countryside
- Loss of wildlife and impact on protected species.
- Loss of prime agricultural land and fruit production
- Over development
- Loss of Countryside Gap (Conflict with Policy 25)
- Development is not allocated in the Local Development Plan
- Loss of trees
- Impact on living conditions of existing houses including views
- Loss of privacy
- Noise and light pollution
- Loss of light and overshadowing existing homes
- Impact on security of existing neighbouring back gardens
- Location of the play area too near existing houses and gardens
- Flood risk
- Impact on water supply and sewage capacity
- Drainage capacity
- Merging of villages will lead to loss of individuality and identity – coalescence
- Loss of greenspace impacting on health and wellbeing

- Lack of involvement in consultation process e.g., did not receive letter
- Need to reduce carbon and climate change e.g., EV charging/renewable energy
- Question whether the affordable housing will be delivered
- Affordable housing attracting the wrong people to the area
- Shops are not within walking distance
- Over population in the area
- Design of houses will not be in keeping with existing houses
- How will the development achieve biodiversity net gain
- Use of 2011 census data in planning document is out-of-date
- Concern over access to allotments from Riddles Road
- No housing should be built until road networks are improved
- Negatively impact future generations - sustainability
- Impact on Heritage Assets – Listed buildings and conservation area
- Impact on safeguarded mineral area - Brickearth Swale area
- Construction traffic impact

4.3. **Borden Parish Council** point out that the proposal is not within Borden but object to the application on the following grounds: -

- Inadequate roads
- Inadequate provision for water supply and disposal of foul water/sewerage
- Proximity to conservation area
- Impact on archaeology
- Inadequate emergency access from Starveacre Lane
- Loss of Grade 1 agricultural land
- Traffic congestion on inadequate local roads
- Impact on local wildlife habitat and protected species

4.4. **Tunstall Parish Council** is currently inquorate, and therefore unable to meet to make a decision regarding this.

5. CONSULTATIONS

SBC Conservation: - No objection. Comment that *“All of the potentially affected designated heritage assets have been correctly identified in the Heritage Statement supporting the application. From my knowledge of the locality, principally in relation to the recent review of the Tunstall Conservation Area, I share the view set out in the Executive Summary to that Statement, that there would be no material impact on any of these assets in terms of any significance that any of them derive from their wider setting.”* Furthermore, *“This is however based on the juxtaposition of the open landscaped areas and parcels of housing being retained/developed as shown in the submitted parameter plans and on the illustrative masterplan. This limits incursion of the built form into the countryside gap (adopted Policy DM25 applies) between Sittingbourne and the settlement groupings making up Borden and also serves to*

prevent the coalescence of the southernmost part of Sittingbourne with the small conservation area settlement of Tunstall.”

SBC Tree Officer – No objection subject to condition

SBC Climate Change Officer – No objection.

SBC Housing Officer – Comments are covered within the affordable housing section below.

SBC Active Travel Officer – No objection. Suggests improvements to coordinate with KCC PRoW comments for improved connectivity via public footpaths to Tunstall.

Mid Kent Environmental Health: - No objection subject to conditions

KCC Infrastructure – Comments are covered in the S106 section below for S106 contribution.

KCC Archaeology – No objection subject to a condition.

KCC PRoW – No objection subject to conditions and a S106 contribution..

KCC Ecology: - No objection subject to conditions. Comment that *“we are satisfied with the conclusions of the ecological surveys and are satisfied no additional surveys are required to determine the planning application. An overview of the ecological mitigation required has been provided and we are satisfied that if the habitat creation is carried out largely as indicated within the illustrative plan and BNG assessment it is likely that the species interest of the site can be retained. We state largely as the badger survey has confirmed that active badger setts have been recorded within the western boundary and there may be a need for additional scrub planting to be carried out along the western boundary to ensure that the setts will not be disturbed. Therefore we advise that the detailed mitigation strategy may result in changes to the layout depicted in the illustrative plan (if planning permission is granted).”*

KCC Flood and Water Management: -No objection subject to conditions

KCC Minerals – No objection

KCC Highways: - No objection subject to conditions. Comment that *“Following Highway comments submitted 13th April, the HA have had an opportunity to discuss the proposals in further detail especially that regarding the partial closure of Riddles Road. The applicant has derived several scheme options to discourage development traffic from using Riddles Road however these have been deemed unfitting given the proportion of development traffic presented on the development distribution diagrams. Two traffic calming schemes have been reviewed, which included the introduction of traffic calming measures and a segregated footway. However, due to the narrow*

nature of Riddles Road and the constrained junction with Borden Lane, a physical closure through the implementation of a Traffic Regulation Order is considered essential to prevent increased traffic movements associated with the development on Riddles Road and an associated S.278 agreement subject to detailed design and technical approval.”

National Highways – No objection subject to conditions

Environment Agency - No objection subject to conditions

Swale Footpaths Group: - No objection

Natural England - No objection subject to HRA assessment on SPA recreational impact.

Southern Water: - No objection subject to a condition and informatives.

Lower Medway Internal Drainage Board – No objection. Comment that *“the development does not impact on the Board’s interests or fall within its remit.”*

Kent Police: - No objection subject to condition on Designing Out Crime.

NHS: - Seek S106 contribution for GP services covered by the S106 section below.

Historic England – No comments to make on the application.

6. **DEVELOPMENT PLAN POLICIES**

6.1. **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 –**

- ST 1** Delivering sustainable development)
- ST 2** Development targets for jobs and homes 2014- 2031
- ST 3** The Swale settlement strategy
- ST 5** 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
- 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, sport 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 25** Separation of settlements and – Important Local Countryside Gaps
- DM 28** Biodiversity and geological conservation
- DM 29** Woodland, trees and hedging)
- DM 31** Agricultural land
- DM 32** Development involving listed buildings
- DM 33** Development affecting a conservation area

6.2. **Supplementary Planning Guidance/Documents**

- Developer contributions (2009)
- Parking Standards (2020)
- Swale Landscape Character and Biodiversity Appraisal (2011)
- Air Quality and Planning – Technical Guidance (Updated May 2021)
- Planting on New Developments

7. ASSESSMENT

7.1. This application is reported to the Committee because at the request of Cllr Clarke. It is recommended that the Committee carefully consider the following points which are the main considerations of this application.

- Principle of Development
- Loss of Agricultural Land
- Landscape and Visual Impact
- Design and Layout
- Heritage Impact
- Archaeology
- Ecology/Biodiversity
- Transport and Highways
- Air Quality
- Flood Risk and Drainage
- Contamination
- Living Conditions
- Sustainability / Energy
- Minerals
- Affordable Housing
- Developer contributions
- Other matters

7.2. **Principle**

7.2.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.2.2. Paragraph 10 of the NPPF states that at the heart of the NPPF is a presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social, and environmental and to achieve sustainable gains these should be sought jointly and simultaneously through the planning system.

7.2.3. The mechanism for applying the presumption in favour of sustainable development is set out in paragraph 11 and states that for decision-taking this means:

- “c) approving development proposals that accord with the Development Plan without delay; and,*
- 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.”*

7.2.4. Assessing the development against the development plan and specifically policies ST1, ST2 and ST3 of the Local Plan, this identifies Sittingbourne as a 1st Tier Settlement and the primary focus for development in the borough. The Council can a 4.83-year supply of housing and as such cannot demonstrate a 5-year supply.

7.2.5. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the ‘Tilted Balance’ in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused. It is clear from the status of Sittingbourne as a 1st tier settlement, as identified in Policy ST 3 of the Local Plan, that it is the most appropriate settlement for large scale development.

7.2.6. The proposals map for Sittingbourne identifies the defined built-up area boundaries of the town. The site lies adjacent to but wholly outside of the settlement boundary. The proposal is therefore in conflict with policies ST1, ST2 and St3 of the Local Plan 2017.

7.3. Loss of Agricultural Land

7.3.1 Policy DM31 of the Local 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. The site comprises 42.6% Grade 1, 25.5% Grade 2, 21.1% Grade 3a and 9.3% Grade 3b agricultural land.

7.3.2 The land is an apple and pear orchard. Most of the land in Swale is classified as BMV land, which amounts to approximately 16,000 hectares including land surrounding Sittingbourne. The site taken as a whole is BMV land would translate to approximately 0.17% of this total. The proposal would encompass 37% of the site for housing with 63% of the land retained for green infrastructure. While the loss of BMV agricultural land counts against the scheme, it would represent only a very small percentage of overall BMV land in Swale. The proposal would have a low to moderate adverse effect on agricultural land and conflict with Policy DM 31. The harm identified is attributed limited weight in the overall planning balance.

7.4. Landscape and Visual Impact

The NPPF requires decisions to ensure that development is 'sympathetic to... landscape setting'. The application site is located within a countryside gap, which seeks to avoid the coalescence of Sittingbourne with the neighbouring villages at Borden and Tunstall. While the site is located within the countryside gap, the landscape itself is not subject to a local plan designation. The Local Plan 2017 sets out that the Council will seek to prevent encroachment and piecemeal erosion by built development or changes to the rural open character. Policy CP 7 requires that in the first instance proposals should seek to minimise and mitigate adverse impacts and where these impacts cannot be mitigated any impact should be weighed against the social and/ or economic benefits of the scheme.

A Landscape and Visual Impact Assessment has been submitted. The methodology used in the assessment is based upon the guidance set out in the 'Guidelines for Landscape and Visual Impact Assessment' (GLVIA), which is the generally recognised methodology.

The nature and scale of the proposed development is such that there would inevitably be a significant change to the landscape character. The housing will be located to the Sittingbourne side of the site and as such is located to ensure that any impact is reduced, in addition to green infrastructure provision and the retention of existing planting where possible. However, notwithstanding this encroachment into the country side will occur. The scheme has also been designed to ensure that planting used where possible to mitigate the development over the lifetime of the development. This approach is appropriate, albeit that both in the short and medium term the landscaping will soften the effects of the proposal but will not significantly reduce the visual impact of the development until year 15.

While the layout and green infrastructure would help to mitigate the overall adverse effect of the loss of open land, the adverse harm identified would result in conflict with policies DM 24 and DM 25

7.5. Heritage Impact

- 7.5.1. The National Planning Policy Framework (NPPF) states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.5.2. The proposed housing development has the capacity to impact on the setting of Tunstall Conservation Area (adjoining the SE tip of the application site), Hearts Delight (Borden) and Harman's Corner (Borden) conservation areas to the west and southwest, along with several listed buildings in the wider locality, notably including the grade I listed Tunstall Parish Church of St. John the Baptist located on Tunstall Road.
- 7.5.3. All the potentially affected designated heritage assets have been correctly identified in the Heritage Statement supporting the application. The Heritage Statement has been reviewed by the Council's Conservation and Design Manager who concurs with the view set out in the statement that there would be no unacceptable impact on any of these assets in terms of any significance that any of them derive from their wider setting because of the distances involved with the location of the assets from the proposed built boundary.

In considering the impact of this proposal on designated heritage assets, Officers have had regard to the Council's obligations pursuant to s16, s66 and s72 of the Planning (Listed Building and Conservation Areas Act) 1990. The setting of the listed buildings in Tunstall nearby (Grade 1 Listed Church of St. John and Grade 2 Listed Cedar House) would be preserved. The submitted scheme would also preserve the character and appearance of the Tunstall, Hearts Delight (Borden) and Harman's Corner (Borden) Conservation Areas.

7.6. Archaeology

- 7.6.1. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.6.2. Policy DM 34 of the Local Plan sets out that for planning applications on sites where there is or has the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.
- 7.6.3. KCC Archaeology has considered the supporting Archaeological Desk-Based Assessment which provides a reasonable baseline account of the archaeology of the area though it hasn't noted the cropmarks of the barrows at Minterne School nor the potential significance of the high land to the west of the site in particular. It is however,

acknowledged that the development proposals involve a combination of housing focused on the eastern side of the site with open space on the western side.

- 7.6.4. It is noted that the submission does not include any supporting archaeological survey or evaluation to inform the planning decision. While this would be helpful to appreciate the archaeological potential of the site, meaningful investigation would not be possible given the present orchard planting on the site. KCC therefore agree that such an intrusive survey and evaluation can be secured through a planning condition before the reserved matters stage.
- 7.6.5. Given the above KCC do not raise an objection to the proposed development. In view of the above, officers consider that the proposal is capable of compliance with Policy DM 34, together with Section 16 of the NPPF, subject to the recommended condition.

7.7. Design and Layout

- 7.7.1. The NPPF attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement under Policies CP 4 and DM14.
- 7.7.2. 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 which has been considered above. Policy DM29 provides protection for existing woodlands, trees, and hedges. The Council's Tree Officer has considered the impact on existing trees and hedges and raises no objection subject to a tree protection methodology.
- 7.7.3. NPPF paragraph 130 (a) to (d) attaches great importance to the design of built development. It advises 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; optimise the potential to accommodate and sustain an appropriate mix of development (including green and other public space); create places that are safe, inclusive and accessible which promotes health and well-being with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 7.7.4. 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.
- 7.7.5. The Illustrative Masterplan and Land Use Access Framework (LUAF) plan shows a landscape-led design to preserve much of the site area for green infrastructure including border planting across the site. The main access is proposed on Minterne Avenue where a new roundabout is formed with a curved spinal road to serve the

building plots, with a series of pedestrian and cycle routes across the green open spaces forming the majority of the layout to the west and south and linked to the existing PRow network surrounding the site. In particular this would link with footpaths ZR136, 140, 143 and ZR154.

7.7.6. The plans show two distinct clusters of housing situated adjacent to the built-up edge of Sittingbourne in the north to the rear of Woodside Gardens and to the south adjacent to properties on Sterling Road in the east. The houses immediately to the rear Woodside Gardens are shown to be comprised of bungalows with a ridge height of 5.7m above ground level (AGL). Houses to the east and west of the internal spinal road are up to 2.5-storeys in height (7.9m AGL) with the remaining houses up to 2-storeys in height (6.3m AGL).

7.7.7. The density is approximately 35 dwellings per hectare (dph) which is consistent with prevailing densities in the area. The built area comprises 8.87ha of land with the green infrastructure comprising 17.33ha in area (63%) which amounts to 26.2ha. The remaining 1.3ha which make up the total site area of 27.5ha consists of roadways and pedestrian/cycle routes across the site. The built area amounts to 37% of the site, including roads and pedestrian cycle routes.

7.7.8. The indicative housing mix is shown below which broadly complies with Policy CP3 and the latest Strategic Housing Market Assessment (SHMA) (June 2020),

House Size	Market Housing*		Affordable Housing*	
1 bed	14	6.9%	8	8.7%
2 beds	70	34.6%	33	38.2%
3 beds	83	41.0%	23	26.3%
4 beds	36	17.5%	23	26.7%
Total	203 no.	100%	87 no.	100%

7.7.9. The proposal would provide significant areas of open space particularly to the west, and south, to provide landscaping and public access within the site and which would link with public footpaths around the site for improved access contributing to the health and wellbeing of existing and future residents. The proposal includes a neighbourhood play area (NEAP) within the open space positioned centrally between the two clusters of housing. The overall green infrastructure across the site is shown in the table below which is considered compliant with Policy DM 17 of the Local Plan. Sustainable Urban Drainage (SUDs) ponds and wildlife areas would also add to the variety of the landscaping and enhance biodiversity.

Open Space / Green Infrastructure Typology	Policy DM 17 Requirement for 290 dwellings (ha)	Proposed (ha)
Parks and gardens	0.80	1.87
Amenity Green Space	0.33	2.82

Natural and Semi Natural Green Space	3.16	12.29
Provision for children and young people	0.06	0.35
Allotments	0.145	0*
Total	4.56	17.33

*The boundary is adjacent to existing allotments on Riddles Road, and it is considered this provides suitable local provision.

7.7.10. The proposal has good potential to deliver safe and attractive places. A condition is recommended to ensure that the Reserved Matters applications are accompanied by sufficient details for crime prevention and safety, in accordance with Policy CP4 of the Local Plan.

7.7.11. In view of the above it is considered that the proposal meets the requirements of Policies ST5, CP4, and DM14, and the NPPF, in so far as they have regard to matters of layout, design and character

7.8. Ecology/Biodiversity

7.8.1. The NPPF aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".

7.8.2. In terms of the Local Plan, policy DM 28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

7.8.3. The application is accompanied by an Ecological Impact Assessment, including bat, badger, and bird surveys, a Biodiversity Net Gain (BNG) Matrix and a Shadow Habitats Regulations Assessment (HRA). These have been reviewed by the KCC Ecological Advice Service who are satisfied that the development would not be harmful to wildlife and biodiversity, subject to conditions to secure an Ecological Mitigation Strategy, Habitat Establishment and Enhancement Plan, Management and Monitoring Plan, and a Plan demonstrating ecological enhancement features to include *integrated* bird, bat and/or bee bricks into all buildings, hedgehog highway in all close board fencing and bat and bird boxes, log piles and insect hotels in to the open space.

7.8.4. KCC also acknowledge that the BNG assessment provided anticipates a BNG of 107% for habitat and 28% for hedgerows. However, it is reliant on the habitats being established, enhanced and actively managed and monitored in the long term. KCC recommend that if planning permission is granted there will be a need for an updated BNG metric assessment to be submitted with any reserved matters application to demonstrate that the proposed BNG can be achieved at the detailed design stage.

7.8.5. Natural England and KCC Ecology also note the site is located within a 6km buffer of the designated European sites of the Swale Estuary and Marshes 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. In accordance with established policy, mitigation for the development in the forms of a tariff payment (SAMMS) to manage impacts upon the SPA and Ramsar sites is required and has been agreed. In accordance with the Habitats Regulations, an Appropriate Assessment has been undertaken and attached as Appendix 2.

7.8.6. In view of the above, officers consider that there are existing conditional safeguards to protect biodiversity and the application should be supported on ecological grounds subject to the discharge of relevant safeguarding conditions referred above. Consequently, the proposal is Policy DM 28 compliant.

7.9. Transport and Highways

7.9.1. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver an integrated approach. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development on locations which are sustainable.”

7.9.2. The NPPF (para. 111) also states that:

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

7.9.3. Local Plan Policy DM6 promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM 7 of the Local Plan provides guidance on parking standards alongside the Swale Borough Council Parking Standards SPD.

7.9.4. The application site is in a sustainable location with access to local schools on Minterne Avenue (Minterne Junior School and The Oaks Infant School) within approximately 400m (5 minutes' walk) with Westlands School (0.6km to the north) and Fulston Manor School (1.15km to the northeast). Sittingbourne Town Centre and the train station are both within 1.14km and 1.5km respectively to the northeast. Retail food stores (Co-op, Lidl and Sainsbury's are approximately 1.4 to 2.3km distance.

7.9.5. The applicant has submitted a Transport Assessment and a Framework Residential Travel Plan in support of the application. The applicant also engaged with KCC Highways prior to formal submission in 2022.

- 7.9.6. KCC Highways considered the submissions and while the proposed access arrangement with a mini roundabout on Minterne Avenue is accepted they raised concern that a large proportion of traffic (approximately 63%) would be diverted west via Riddles Road. This is a narrow country lane unsuitable for two-way flow which would compromise safety on the local traffic distribution network, including the cumulative impact of the Wises Lane development to the west in Borden where contributions towards enhanced pedestrian and cycle routes are secured by the existing S106 agreement for that development.
- 7.9.7. The applicant has actively engaged with KCC Highways to resolve the issue. Amended plans and additional supporting information has been presented for the partial closure of Riddles Road to prevent traffic exiting towards Borden Lane and vice versa to be secured via a S278 agreement. A planning condition is necessary and recommended for the applicant to secure the associated Road Traffic Order to implement the partial closure of Riddles Road. Access to the allotments and existing fields on Riddles Road are not compromised.
- 7.9.8. Sufficient capacity via alternative routes in the local network has been demonstrated and KCC raise no objection to the proposal, subject to conditions and S106 obligations covered in the paragraph below. A secondary access for emergency vehicles from Starvacre Lane is also considered satisfactory.
- 7.9.9. National Highways have also considered the proposal and have no objection to the application subject to conditions on a Construction Management Plan and a Travel Plan, which is also requested by KCC Highways. The highway authority consider that the development will generate additional traffic movement in the local network and further afield at Key Street roundabout and contributions are requested to ameliorate traffic impacts which is considered reasonable and necessary as set out in the S106 table below.

Public Rights of Way (PROW)

- 7.9.10. KCC PRow officer has initial concerns on the impact of the proposal on surrounding public rights of way, particularly ZR51, ZR136 and ZR154. Other footpaths affected are ZR140, 141, 142 and 147. Following further clarification and an amended plan to locate the proximity of the footpaths to the proposal the PRow officer considers that the proposal can be accepted subject to conditions relating to the provision of a PRow management scheme to include further details of surface treatment, width, signage at the reserved matters stage. Details of a strategy regarding off-site connectivity for greater permeability and off-road connectivity is also required. A site survey of the PRow has been undertaken by KCC and a S106 contribution of £105,435 is requested to enable a package of improvements affected by the proposal. At the time of writing the report the applicant has not confirmed agreement to the requested sum.

- 7.9.11. The connectivity comments are also replicated by the SBC Active Travel Coordinator seeking the same outcome.
- 7.9.12. The applicant acknowledges that car and cycle parking provision should comply with SBC Parking Standards SPD. Additionally, visitor spaces and EV charging points should also comply with the SPD. They are to be determined at the reserved matters stage within the detailed layout to demonstrate compliance with the SPD and. Policy DM 7.
- 7.9.13. In view of the above, the proposal is considered compliant with Policies DM 6 and capable of compliance with Policy DM7.

7.10. Air Quality

- 7.10.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.
- 7.10.2. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.
- 7.10.3. The Planning Practice Guidance on Air Quality states that
- “whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”*
- 7.10.4. The Local Plan at Policy DM 6 sets out that development proposals will 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.
- 7.10.5. The key impacts would be from vehicle and domestic boiler emissions. The applicant’s Air Quality submission propose measures to mitigate air quality impacts to include gas boilers that meet minimum emission standards, electric vehicle charging points with additional measures within the Framework Travel Plan to encourage sustainable travel modes (vouchers to purchase bikes and discounted bus tickets), as well as improvements to pedestrian routes to encourage walking.

The measures are considered acceptable to satisfy Mid Kent Environmental Health. The emissions mitigation assessment has also been completed in line with guidance and the damage costs amounting to £82,249 is to be secured via the S106 agreement.

7.10.6. The proposal is considered acceptable to accord with Policies ST5 and DM6 of the Local Plan and NPPF.

7.11. Flood Risk and Drainage

7.11.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. Policy DM21 of the Local Plan sets out a raft of criteria aimed at preventing or reducing flood risk. Policy CP7 requires new development to be supported by the timely delivery of green infrastructure, including SuDS.

7.11.2. The applicant has submitted a Flood Risk Assessment. The site lies entirely within Flood Zone 1, and all dwellings would be in this zone. The Environment Agency have no objection to the proposal subject to conditions on piling and foul drainage disposal. KCC Flood and Water Management have raised no objection to the scheme, subject to the imposition of conditions on SuDS drainage. Southern Water require further details of sewerage disposal. This is conditioned for further approval. The Lower Medway Internal Drainage Board has not raised any concerns. As such it is considered that the proposed development, with appropriate conditions, would have a suitable approach to flood water, surface water and foul water drainage /sewerage disposal.

7.11.3. In view of the above, the proposal is considered to comply with Policies CP7 and DM 21 subject to details reserved by conditions for approval.

7.12. Contamination

The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.

7.12.1. The Mid Kent Environmental Health have considered the scheme and confirm that there are no records of contaminated land at this location. However, due to previous agricultural use and the scale of the development proposed a contamination condition is recommended to safeguard public health. They raise no objection subject to a contamination condition as set out at the end of the report.

7.13. Living Conditions

Existing residents

7.13.1. The Local Plan Policy DM 14 requires that new development has sufficient regard for the living conditions of neighbouring occupiers.

- 7.13.2. The nearest residential properties lie to the north in Woodside gardens and to the east in Sterling Road. The layout of the proposed dwellings in a back-to-back arrangement. The proposed bungalows adjacent to Woodside Gardens would not give rise to amenity impacts on the living conditions of existing residents. The proposed two storey houses to the rear of properties in Sterling Road would exceed the 21m distance rule for facing windows above ground level to satisfactorily address issues of loss of privacy, light and outlook, notwithstanding the proposed tree planting along this edge.
- 7.13.3. In terms of the living conditions of future residents the illustrative outline layout suggests there is sufficient spacing between back-to-back housing to ensure adequate amenities in respect of privacy, daylight/sunlight and outlook. Details of dwelling sizes and private amenity space will be subject to assessment at the Reserved Matters stage. The proposal is therefore considered to comply with Policy DM 14.

7.14. Sustainable / Energy

- 7.14.1. Policy DM 19 of the Local Plan requires development proposals to include measures to address climate change.
- 7.14.2. The applicant has provided a Sustainability and Energy Strategy, which has been considered by the Council's Climate Change officer with the following salient points to note: -
- Build to the Future Homes Standard and achieve a saving of 31% emissions as required by Part L of the Building Regs 2022
 - Water use will meet DM19 requirement of 110 litres per person per day. A SUDs system will minimize run off.
 - Solar gain will be optimised with green buffers providing shading and cooling and carbon sequestration
 - The use of solar PV will be considered and the houses will have an electricity supply that can support the use of air source heat pumps.
 - Transport Strategy meets EV charging requirements.
- 7.14.3. The committee is asked to note that Future Homes Standard is expected to raise the bar to 'net zero ready' on carbon emissions by 2025. The interim Building Regs Part L came into force in 2022 before more significant changes in 2025 that will require a 75% reduction on CO2 emissions.
- 7.14.4. In view of the above officers consider it is reasonable and necessary to condition further details of the energy strategy at the reserved matters stage and the measures would comply with DM19 of the Local Plan, and the NPPF with respect to sustainability and climate change.

7.15. Minerals

7.15.1 Kent County Council Minerals and Waste were consulted on the application in December 2022, along with other statutory consultees, and initially objected requesting borehole sample testing for consideration. The sampling evidence provided to demonstrate that minerals present are not viable for extraction. KCC have confirmed that they no longer object and that the proposal would not conflict with Policy DM 7: Safeguarding Minerals Resources of the Kent Minerals and Waste Local Plan 2013-30.

7.16. Affordable Housing

7.16.1 The Government seeks to significantly boost the supply of homes as set out in the NPPF it is important that a sufficient amount and variety of land come forward where needed and that the needs of groups with specific housing requirements are addressed. The Council has undertaken a local housing needs assessment for the Borough, which identifies an acute need for affordable housing.

7.16.2 The approach to the delivery of affordable housing is set out in the Local Plan 2017 and is consistent with that set out in the NPPF. It seeks to secure affordable housing provision on major sites in order to provide a wide choice of quality homes including affordable housing. The quantum of affordable housing required for new development is set out in policy DM 8 of the Local Plan 2017. This sets out the affordable housing percentages that will be sought on proposals in different areas across the district. It is evident from the policy that viability is most affected in the housing market areas of Sheppey, Sittingbourne and Iwade, in these areas 10% affordable housing is required with 40% being required in rural areas.

7.16.3 The site constitutes a greenfield urban extension where the Local Plan is clear that higher development values can be expected. Considering this the characteristics of the site are not consistent with a site that officers would expect to see a 10% affordable housing provision for example a brownfield site in Sittingbourne town centre. The Local Plan is clear that in instances such as this it will seek a proportion of affordable housing closer to the assessed level of need, which given the sites location outside of the built-up area and within a rural parish is 40%. Furthermore, para 7.3.7 of the supporting text to DM8 provides that the percentages in DM8 are the “starting point for decision making in development proposals” and para 7.3.8 provides that *proposed characteristics of the development or its location...clearly demonstrate a positive change in the overall viability of development, the Council will seek a proportion of affordable housing closer to the assessed level of need, or at higher levels...*. An example given is “*the case of a greenfield urban extension*”.

7.16.4 At present the applicant has offered 30% affordable housing, however, this has not been subject to a viability assessment therefore the level of affordable housing that can be achieved across the site has not been robustly assessed by the applicant nor has it been independently assessed within the context of the site. Policy DM 8 is clear that a lower provision of affordable housing will only be allowed where a scheme has been subject to viability testing.

7.16.5 Taking this into account insufficient information has been provided to demonstrate that a policy compliant level of affordable housing cannot be provided. The proposal therefore fails to demonstrate that a variety of housing that meets local needs cannot be delivered on the site and as such conflicts with policy DM 8 of the Local Plan 2017 and the NPPF.

7.17. Developer Contributions

7.17.1 Policy CP6 of the Local Plan seeks to deliver infrastructure requirements and other facilities to ensure the needs of the Borough are met, including digital infrastructure to enable fast internet accessibility.

7.17.2 The following contributions and obligations have been identified as reasonable and necessary to mitigate the impacts of the development on the surrounding area / infrastructure. The table below sets out the detail of the contributions: -

Requirement	Value	Towards
Air Quality damage Costs	£82,249.00	Mitigation
SAMMS payment	£314.05 per dwelling	North Kent Strategic Access Management and Monitoring Strategy
Primary Education	£6,800.00 per applicable house	Towards a new Primary school in the Wises Lane development (17/505711/HYBRID) and/or increased capacity in the Sittingbourne South planning group
Secondary Education	£5,176.00 per applicable house	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	£2,635.73 per house	Towards the land costs of the new Secondary School in Northwest Sittingbourne (Local Plan Policy MU1) and/or new Secondary Schools in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning groups.
Community Learning	£16.42 per dwelling	Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre and outreach provision to increase capacity in the service.
Youth Service	£65.50 per dwelling	Contributions requested towards additional equipment and resources for the Youth service to provide outreach services in the

		vicinity of the development.
Library Services	£55.45 per dwelling	Contributions requested towards additional services, resources, and stock at Sittingbourne Library or any other serving the development.
Social Care	£146.88 per dwelling	Towards Specialist care accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough.
Waste	£183.67 per dwelling	Towards additional capacity at the HWRC & WTS in Faversham
Wheelie Bins	£109.40 per dwelling;	To ensure the development is provided with facilities to meet waste collection requirements
NHS (Integrated Care Board)	£250,560.00	Towards provision of GP Services in the locality
KCC Highways	£174,432.58	Towards Key Street junction, A2/Swanstree avenue junction and signalised reconfiguration at Dover Street/Milton Road Junction 7
Affordable Housing	Provision of 30% affordable houses	In accordance with Housing Officer comments
KCC PROW	£105,435	To improve the surface and environment of public rights of way in the vicinity of the development site, including for improvements to Public Footpath ZR136 offsite, ZR145 offsite, ZR154 which runs along the boundary of the development site including ZR51 and the wider network
Monitoring fee	£50,108.92	Administrative SBC and KCC costs

7.17.3 The S106 agreement will also include provision for the management and maintenance of the open space/play space. Except for the updated KCC PRoW request for £105,435 (previously agreed as an estimate at £90,000), all other contributions have been agreed by the applicant.

Other Matters

7.17.4 Members are asked to note that loss of a view is not a material planning consideration. Further consideration at the Reserved Matters stage relating to layout, appearance and scale will enable detailed consideration of living conditions of existing residents. It is considered that the outline layout satisfactorily address living conditions of existing neighbours impacted by the proposal.

7.18. Conclusion

- 7.18.1. The erection of 290 dwellings, including 30% affordable housing, would contribute towards the lack of 5-year housing land supply at Swale Borough Council despite the fact that the site is not allocated for housing development. As the Council cannot currently demonstrate a 5 YHLS, the presumption in favour of sustainable development applies and the “tilted balance” is engaged. The site is in the countryside and as such conflicts with the spatial strategy set out in the Local Plan. However, given the Council’s lack of a 5 YHLS, the defined boundary around Sittingbourne is not afforded full weight given the need for housing in general. The contribution towards market housing which is needed and is afforded significant weight.
- 7.18.2. The NPPF and the Local Plan seek to boost the delivery of housing including that of affordable housing, which in this location is 40%. The applicant proposes 30% affordable housing, which has not been justified via an independent assessment. Given the acute need for affordable housing within the Borough the shortfall in affordable housing is afforded significant weight. This coupled with loss of best and most versatile agricultural land, the identified landscape harm, which are given moderate weight all weigh against the scheme.
- 7.18.3. Taking the above into account the proposal fails to accord with the policies ST1, ST2, ST3, DM8, DM24, DM25, DM31, and CP6 of the Local Plan 2017 and the NPPF. This conflict overall is given significant weight.
- 7.18.4. Given the conflict with the Local Plan 2017 and the NPPF, the proposal is not considered to be sustainable development. This is because the benefits associated with the delivery of market housing are considerably and demonstrably outweighed by the harm arising from the social impacts of the under delivery of affordable housing coupled with the environmental harm.
- 7.18.5. It is recommended that planning permission for the proposal be refused.

REASONS FOR REFUSAL

1. The application is located outside of the settlement boundary for Sittingbourne and would result in the loss of best and most versatile agricultural land on a site that is not allocated site for housing development. Furthermore, the development would result in the encroachment of housing into the countryside and would harm the landscape character of the area. This harm taken together with the under delivery of affordable housing (as amplified in reason 2) would significantly and demonstrably outweigh the benefits of the development contrary to policies ST1, ST2, ST3, ST4, ST5, CP4, CP7, DM24, DM29 and DM31 of the Local Plan, together with the NPPF paragraphs 8, 11, 60, 81, 126, 130, 131, and 174.
2. Insufficient information has been provided to demonstrate that a policy compliant level of affordable housing cannot be provided. The proposal therefore fails to demonstrate that affordable housing that meets local needs cannot be delivered on

the site and as such the proposal conflicts with Policies ST1, ST2, ST3 and DM 8 of the Local Plan 2017 and the NPPF paragraphs 8, 11, 60, 65 and 81.

3. No legal agreement has been finalised to secure mitigation against community and ecological harm, and as such the proposal is unacceptable based on the unmitigated impacts that would be likely to result, contrary to the provisions of Policy CP6 of the Bearing Fruits 2031: The Swale Borough Local Plan (2017) and the NPPF paragraph 34, 55 and 57.

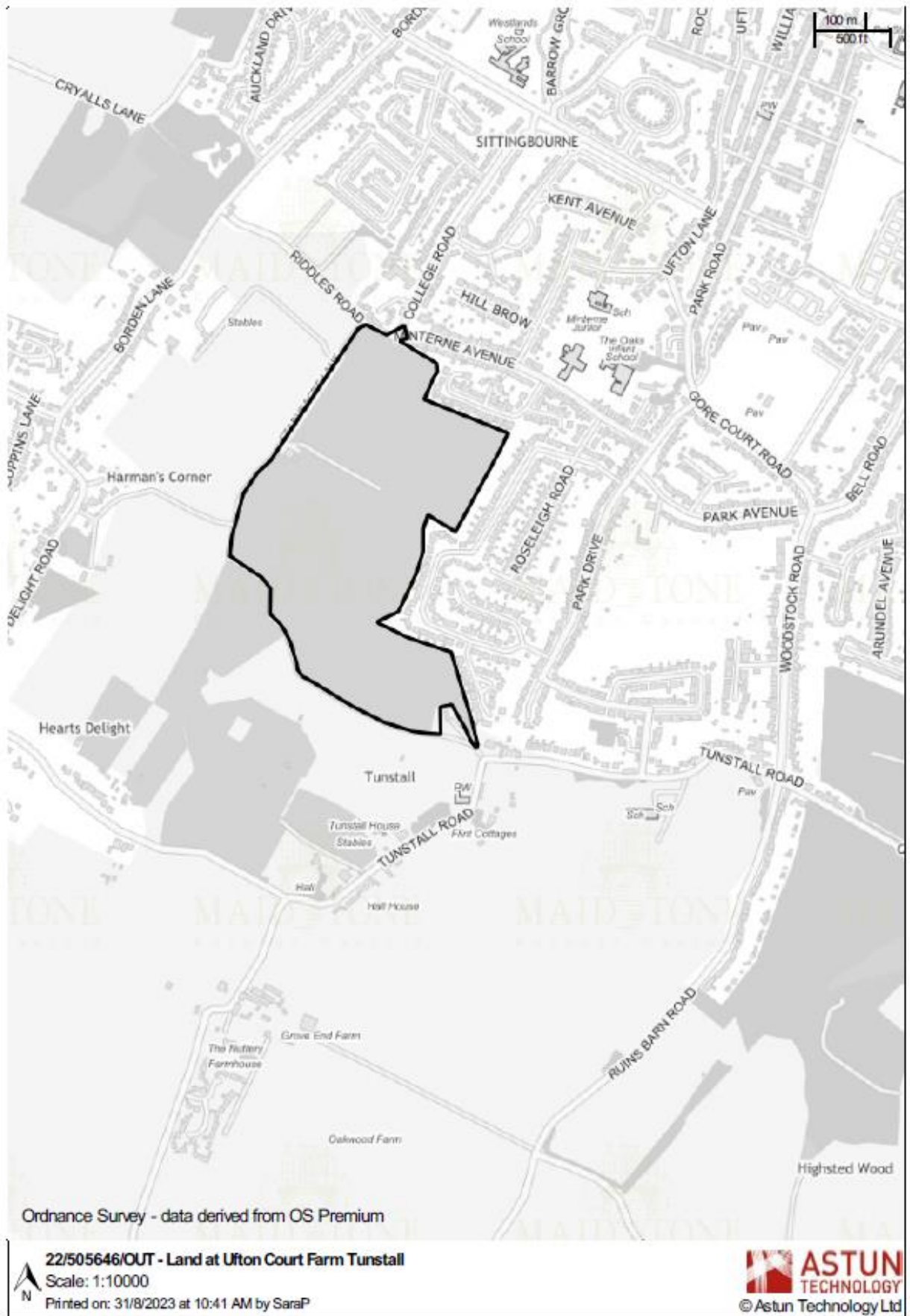
The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application. The applicant amended the proposal in response to officer requests but have not complied with the request for a viability appraisal in respect of the 30% affordable housing provision..

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

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

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



PLANNING COMMITTEE – 9 NOVEMBER 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 – Land at School Lane Newington**

APPEAL ALLOWED

AGAINST OFFICER RECOMMENDATION

Observations

The Inspector reported that the main issues were: (1) the effect of the proposal on the character and appearance of the area; and (2) whether any adverse effects of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework (the Framework) taken as a whole.

In terms of main issue (1), it is agreed) that the site is not a 'valued' landscape so paragraph 174 a) of the Framework has no application.

In terms of Issue 2, the Inspector reported that the Council's inability to demonstrate five years' worth of housing means that paragraph 11 d) ii of the Framework must be applied. The parties agree that the provision of 25 houses, including 10 affordable units carries weight.

In terms of Other Matters, the Inspector reported that local residents raised issues in terms of highways and air quality. Whilst the Inspector noted what is said in the submissions made on behalf of the Parish Council but the (*Borough*) Council takes no issue with the proposal in these terms.

In terms of the Planning Obligation, the Inspector advised that there is no disagreement over most of the obligations and on my analysis, the Electric Bike Contribution, the Emissions Mitigation Contribution, the NHS Healthcare Contribution, the Refuse Contribution, the SPA Mitigation Contribution, the provision of Affordable Housing, the Community Learning Contribution, the Highways Contribution, the Libraries Contribution, the Primary Education Contribution, the Secondary Education Contribution, the Secondary Education Land Contribution, the Social Care Contribution, the Waste Contribution, the Youth Services Contribution, and the provision and transfer of the school car park, all meet the tests set out in paragraph 57 of the Framework, and Regulation 122 of the CIL Regulations.

The appeal was therefore Allowed.

- **Item 5.2 – Land Adj Checkmate New Road Sheerness**

APPEAL DISMISSED**DELEGATED REFUSAL****Observations**

The main issues were: (i) whether the proposal would provide an acceptable standard of accommodation for future occupiers, with particular regard to noise disturbance, and; (ii) the effect of the proposal on the character and appearance of the area.

The Noise Impact Assessment identified that with windows open, the internal maximum noise levels at night resulting from passing trains would exceed the recommended guidelines. The Inspector agreed with the Council that the need to keep these windows closed throughout the development would not be conducive to a healthy living environment and would result in an unacceptable standard of accommodation.

Regarding character and appearance, the Inspector concluded that an acceptable solution could reasonably be achieved at the reserved matters stage, which would reflect the prevailing character of the surrounding area.

As such, the appeal was dismissed only through failing to provide an acceptable standard of accommodation for its future occupiers. The effects were found to be significant and long lasting, and present conflict with the Framework.

- **Item 5.3 – Telegraph Pole Lower Road Faversham**

APPEAL DISMISSED**DELEGATED REFUSAL****Observations**

The Inspector agreed with the Council that the proposed mast would result in harm to the character and appearance of the area, the setting of the conservation area and the nearby listed building. The existing timber telegraph pole blends in with the surroundings, but the proposed mast would be substantially taller and visible from surrounding roads and properties, including in views within the conservation area and from the listed building along Lower Road. The Inspector concluded that due to its height, bulk, and utilitarian appearance it would appear as an incongruous and visually dominant structure and the removal of the existing telegraph pole and equipment cabinets from the conservation area would not outweigh the harm. The Inspector acknowledged it would not increase the number of masts but nonetheless would be a new installation. The Inspector concluded that the appellant had not demonstrated a robust sequential approach to site selection or that all potential opportunities to use existing buildings, structures or masts had been considered and on this basis the Inspector dismissed the appeal.

- **Item 5.4 – Land to east of Lynsted Lane Lynsted**

APPEAL ALLOWED**AGAINST OFFICER RECOMMENDATION****Observations**

The Inspector identified the main issues as (1) whether the development site was suitably accessible to services and facilities, and whether (2) the proposal complies with the Council's settlement strategy.

The Inspector notes the proximity to the site to convenience and specialist retail stores, eating establishments including a pub and takeaways, and schools; in addition, there are bus stops close by, and it is concluded that the site is suitably located in terms of its accessibility to services and transport options, complying with the NPPF.

In terms of the settlement strategy, the site is located within the open countryside, outside built-up area boundaries, and does not use previously developed land; there is no conflict with Policies ST1 and ST3 of the Local Plan.

However, given the Council's Land Supply position of 4.83 years, the titled balance needs to be applied. In this regard, the benefits of the scheme, including the delivery of 10 no. houses, would outweigh any adverse impacts.

The appeal was therefore Allowed.

- **Item 5.5 – Land Adj The Coach House Chalkwell Road Sittingbourne**

APPEAL DISMISSED**DELEGATED REFUSAL****Observations**

The Inspector agreed with the Council that the new dwelling will have a harmfully dominant and overbearing effect on the outlook of occupiers of The Coach House. The Inspector did not share the Council's view that the proposal would fail to provide an acceptable amount of private amenity space for future occupiers and would lead to harmful overlooking of neighbouring properties along Staplehurst Road, and as such the appeal was only dismissed on the harm caused to The Coach House.

- **Item 5.6 – Oast View Track to Kingsdown Church Kingsdown**

APPEAL DISMISSED**DELEGATED REFUSAL****Observations**

The Inspector agreed with the Council that the proposed dwelling would not be in a suitable location and would cause harm to the character and appearance of the landscape and scenic beauty of the AONB. The Inspector disagreed with the Council's view that no harm would be caused to nearby listed buildings and stated that the

proposal would harm the significance of designated heritage assets in particular Church Oast and the Church of St Catherine and therefore also dismissed the appeal on this basis.

- **Item 5.7 – 4 The Retreat The Street Doddington**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector agreed with the Council that the extension of the residential curtilage into agricultural land would cause harm to the character and appearance of the surrounding area and would fail to enhance the special qualities and distinctive character of the AONB. This effect would be significant due to the prominence of the development in views from public vantage points.



Appeal Decision

Hearing held on 11 July 2023

Site visits made on 10 and 11 July 2023

by Paul Griffiths BSc(Hons) BArch IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 September 2023

Appeal Ref: APP/V2255/W/22/3312284

Land at School Lane, Newington

- 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 Fernham Homes against the decision of Swale Borough Council.
 - The application Ref.21/504028/FULL, dated 19 July 2021, was refused by notice dated 17 October 2022.
 - The development proposed is the erection of 25 no. 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.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 25 no. 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 on Land at School Lane, Newington in accordance with the terms of the application, Ref.21/504028/FULL, dated 19 July 2021, subject to the conditions set out in Annex A.

Main Issues

2. As set out at the Hearing, these are: (1) the effect of the proposal on the character and appearance of the area; and (2) whether any adverse effects of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework (the Framework)¹ taken as a whole.

Reasons

3. Before embarking on an exploration of the main issues set out above, it is necessary, for reasons that will become clear, to deal with two matters that are of fundamental importance to the way in which a decision on the proposal must be approached.
4. The first of these is the development plan. This includes Bearing Fruits 2031; the Swale Borough Local Plan that was adopted in July 2017. Policy ST1 explains how sustainable development is to be delivered in Swale.

¹ A revised version of the Framework was issued on 5 September 2023 but the changes made have no effect on my consideration of the case in hand, so I have not sought comments on those changes post-event

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5. Amongst a series of requirements, development is expected to accord with the settlement strategy which is set out in Policy ST3. This strategy involves the prioritisation of brownfield land, and a hierarchy with Sittingbourne as the primary urban focus for growth, followed by the other Borough urban centres of Faversham and Sheerness. After them, Rural Local Service Centres are intended to provide a tertiary focus for growth in the Borough overall, and the primary focus for the rural area. Other villages with built-up area boundaries are expected to provide for development on minor infill and redevelopment sites within built-up area boundaries, where compatible with the character of the settlement and other factors. Finally, at locations in the open countryside, outside those built-up area boundaries, development will not be permitted.
6. The appeal site lies outside the built-up area boundaries of Newington, a Rural Local Service Centre, and as such, it must be considered part of the open countryside where the settlement strategy inhibits development.
7. In that context, the proposal must be considered contrary to Policy ST3, and, as a result, Policy ST1. Given the central importance of these policies to the overall strategy of the Local Plan, the failure to accord with them means that the proposal falls contrary to the development plan read as a whole.
8. That is not the end of the matter, however, because, following the line of s.38(6)² a decision-maker must take account of 'other material considerations' before reaching a final conclusion on the proposal. The Framework is, obviously, a significant material consideration.
9. That leads on to the second preliminary matter. Paragraph 74 requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing. It is accepted that the Council cannot do that but there is a difference between the parties on the extent of the shortfall; the appellants calculate that the Council can demonstrate 3.28 years' worth while the Council maintain that the correct figure is 4.83 years.
10. Very little turns on the difference for reasons that will become clear but for the sake of completeness, it seems to me that the correct figure (bearing in mind that calculating housing supply is not an exact science) is nearer to that of the appellants. I reach that conclusion because the Council, having failed the Housing Delivery Test (with a published figure of 78%), should be applying a 20% buffer to the housing requirement, calculated through the standard method, because the housing requirement in the Local Plan is more than five years old.
11. I appreciate the Council's concerns about the outcome of the Housing Delivery Test, and their own calculations, but Planning Practice Guidance is very clear that it is the published figure that should be used. That published figure is 78% which makes for a 20% buffer.
12. On top of that, there are concerns about the rate of housing delivery on some major sites that are connected through Grampian conditions to the completion of improvement works to Junction 5 of the M2. I recognise that these works are outside the Council's control, but the drag they impose on the delivery of new housing has an impact on housing supply that cannot be ignored.

² Of the Planning and Compulsory Purchase Act 2004 (as amended)

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13. In the situation where five years' worth of housing cannot be demonstrated, paragraph 11 d) of the Framework comes into play. There are no policies in the Framework protecting areas or assets of particular importance that, if applied, provide a clear reason for refusing the development proposed. On that basis, paragraph 11 d) i is not triggered and it is paragraph 11 d) ii that must be used.
14. This sets out that in the circumstances of this case, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, considered as a whole. With that in mind, I turn to those adverse impacts, and the benefits of the scheme.

Character and Appearance

15. The site lies to the immediate west of Newington Primary School. The north-east corner of the site is covered with hardstanding. It seems that surface was put in place to accommodate construction vehicles involved in building out the housing scheme to the north of the school, on the opposite side of School Lane. The rest of the appeal site is part of a very large field, in agricultural use, that stretches out to the south, and the west.
16. The existing hardstanding is used informally to provide parking for those dropping children off at the school or collecting them. In the Statement of Common Ground³, the Council accepts that the area of hardstanding is immune from enforcement action by virtue of the passage of time. However, it is not clear whether its use for the purposes of parking in association with the school is immune too. In that context, I have considered the landscape baseline to include the area of hardstanding, but not the vehicles parked upon it, and the associated comings and goings.
17. It is agreed in the SoCG that the site is not a 'valued' landscape so paragraph 174 a) of the Framework has no application. However, paragraph 174 b) of the Framework is clear that we should recognise 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.
18. The Local Plan, as you would expect, takes a similar approach. Amongst other things, Policy DM 14 requires development proposals reflect the positive characteristics and features of the site and locality; conserve and enhance the natural and/or built environment taking into account the desirability of sustaining and enhancing the significance of heritage assets; and be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location. Part B of Policy DM 24 says that non-designated landscapes will be protected and enhanced and planning permission will be granted subject to the minimisation and mitigation of adverse landscape impacts; and where significant adverse impacts remain, that the social or economic benefits of the proposal significantly and demonstrably outweigh the harm to landscape character and value of the area. Part C requires the scale, layout, and landscape design of all proposals to be informed by landscape and visual impact assessment.

³ Agreed between the appellant and the Council - referred to hereafter as SoCG

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19. Policy DM 26 refers to rural lanes and states that planning permission will not be granted for development that would either physically, or as a result of traffic levels, significantly harm the character of rural lanes.
20. My starting point is that against this policy background, and notwithstanding the baseline that I have referred to above, building a housing development on the site, alongside a replacement school car park, is bound to have something of a harmful effect on the countryside character and appearance of the site.
21. The Council has described the extension of the urban area that would result as the arbitrary annexation of the corner of a field, and thereby particularly incongruous. Given the way this part of the settlement of Newington is contained by the strong wooded western boundary of the school grounds, and Boxted Lane to the north, I can understand why the Council has reached that view. However, I think that is reducing an analysis of the potential impacts to something that is a little too simple.
22. Historic mapping shows that the large field that the appeal site is currently part of has, in the past, been subdivided into smaller parcels containing orchards. On that basis, excising parts out of fields is not something alien to the area. Moreover, the planted screen on the southern boundary of the proposal, once established, would line through, broadly, with the strong, tree-lined southern boundary to the school grounds. That gives a strong basis for the line of the southern boundary the development. Views of the scheme from the footpath that crosses the ridge to the south-west of the site⁴, would have the same planted boundary, and that on the western boundary of the site, in the foreground. There are already filtered views of the existing housing, to the north of the school, on the opposite side of School Lane, from the footpath.
23. For all those reasons, I do not consider that the proposal would appear arbitrary or particularly incongruous. Rather, if the landscaped boundaries are well-designed, something that can be secured by condition, the proposal could, when those boundaries become established, be seen as a logical extension of the settlement. The photomontages set at Year 15 suggest as much.
24. I do not say that this ability to assimilate the proposal, over time, means that the harm caused in character and appearance terms will disappear. However, it does act in a way that leads me to conclude that the harm caused by the proposal, in character and appearance terms, will be very limited, and not as severe as the Council suggests.
25. I noted during the site visit, when walking along the footpath that crosses the ridge to the south-west of the site, that the proposal will be seen in the foreground of views towards the Newington Conservation Area and in particular, rising above the existing trees, the tower of the Church of St Mary, a Grade I listed building. While it was not discussed in these terms at the Hearing, there is some suggestion in the SoCG that the proposal would cause some (less than substantial) harm to the setting, and thereby the significance of the Church of St Mary.
26. I do not accord with that view. The visibility of the Church tower, rising above the trees in views from the footpath is one part of the setting of the Church that contributes to its significance as a designated heritage asset.

⁴ Shown on the submitted photomontages from Viewpoints 6 and 17

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27. However, one is already conscious of built form in the foreground of these views, so the observer is conscious of the settlement of Newington, and the presence of the Church within it. The proposal will add built form to the foreground that will be more prominent than the existing built form in these views, though in time that prominence will recede as the screen planting becomes established. However, this new visual presence will not interfere with the tower or reduce its status as a marker of the position of the Church within the settlement. In that way, while the proposal would change the setting of the Church, it would not do so in a way that would be harmful to that setting, or to the significance of the designated heritage asset.
28. Bringing those points together, the proposal would have an adverse impact on the character and appearance of the area. That adverse impact would be limited but nevertheless, there would be conflict with the first part of Policy DM 14 in that the natural environment of the site, such as it is bearing in mind that it is, in the main, intensively farmed, would not be conserved or enhanced. Having said that, I am content that the proposal would reflect the positive characteristics and features of the site and locality, notably the existing strong wooded boundaries, and be of a scale, design, appearance and detail that is sympathetic and appropriate to the location. The significance of affected designated heritage assets would not be harmed by the proposal.
29. I take a similar view in relation to Part B of Policy DM 24. The (non-designated) landscape would not be protected or enhanced by the proposal, but adverse landscape impacts would be minimised and mitigated by the design of the proposal and in particular, the strong boundaries planted out with native species. In that way, the scale, layout, and landscape design of all proposals has been properly informed by landscape and visual impact assessment. The latter part of the policy (Part C) is a matter for the balancing exercise that I turn to below. Similarly, the proposal would cause a degree of harm to the rural lane (which has been referred to under various names including Breach Lane, Bricklands, and Mill Hill), in character and appearance terms, but the approach to design means that it would not be significant. I see no departure from Policy DM 26 as a result.
30. The adverse impact of the very limited harm caused in character and appearance terms needs to be brought into the balancing exercise.

Other Matters

31. Local residents raised issues in terms of highways and air quality. I note what is said in the submissions made on behalf of the Parish Council⁵ but the Council takes no issue with the proposal in these terms.
32. Dealing with traffic flows first, I accept that Church Lane is narrow and a challenge for the driver in either direction given the manner in which vehicles are parked along it. I have no doubt that this must lead to difficulties for drivers, particularly where the road passes under the railway bridge. Moreover, I experienced for myself the difficulties involved in turning into Church Lane from the High Street (the A2), and emerging from Church Lane on to High Street, particularly when turning right.

⁵ Prepared by Railton – the copy handed up to me at the Hearing (Document 6) is dated 7 July 2023

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33. It is important to appreciate though that these conditions persist at present, without the development proposed here in place. The question for me is whether the proposal would make those situations worse. That analysis must take place in the context of paragraph 111 of the Framework. This says that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
34. Using the trip rates agreed between the appellant and the Council, that I have no good reason to depart from, the proposals would be likely to generate around 12 two-way movements (4 arrivals and 8 departures) on Church Lane in the morning peak, and 10 two-way movements (7 arrivals and 3 departures) in the afternoon peak. The Highway Authority considered that this would have a negligible impact on the operation of Church Lane, bearing in mind existing traffic flows, and the activity associated with pupils being dropped off at school in the morning.
35. I acknowledge the evidence I heard from local residents about conditions on Church Lane, and the 'Railton' paper, but I consider the conclusion of the Highway Authority to be a robust one, having regard to the technical evidence submitted on the appellants' behalf. I would observe too that even if I thought that the Highway Authority was perhaps underplaying the likely impacts, it would be difficult to conceive of a situation where they were doing so to the extent that a conclusion on those impacts could go from 'negligible' to 'severe'.
36. In highway safety terms, I take the view that the proposal would lead to a significant improvement from the existing situation. I observed for myself⁶ that conditions around the school are somewhat fraught when the school closes, with largely unmanaged parking on the existing hardstanding, with associated tensions between comings and goings, and many of examples of ill-considered parking, with vehicles mounting pavements and verges. Though I accept that this sort of behaviour is not unknown around schools, at drop-off and collection times, what I saw appeared particularly egregious, and, frankly, a danger to those leaving the school.
37. In the first instance, the proposal would provide a rearrangement of the car park with spaces clearly arranged and marked, and a remodelled site access, designed to ease the tension between incoming and outgoing vehicles. That would be a significant improvement over the prevailing situation.
38. Moreover, new footways would be provided with high kerbs, the road would be widened, with double yellow lines to restrict parking, and the 30mph speed limit zone extended. These works would need to be carried out under s.278 and elements would require a Traffic Regulation Order (TRO), but they could be secured by suitably worded conditions. Altogether, they would result in a significant improvement to highway safety in the vicinity of the school. Far from weighing against the proposal, the positive impact it would have in these terms is a benefit of the scheme.
39. I accept that those residents of the houses opposite the school have concerns about the retaining structures that would be required to facilitate some elements of the highways works proposed. However, from what I saw, these would be relatively minor and would have no undue impact on the dwellings

⁶ When I carried out an unaccompanied site visit on the afternoon of 10 July 2023

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themselves, or the appearance of the street-scene. In any event, the Council could, through the conditions, ensure that they are suitably well-designed.

40. I have also given some thought to the suggestion that rather than turn right out of the development, residents might be tempted to turn left along the rural lane variously referred to as Breach Lane, Bricklands, and Mill Hill, rather than right, thereby avoiding Church Lane in seeking access to the A2. I cannot rule out the possibility, obviously, but it seems to me a rather unlikely prospect given the restricted width of the rural lane and the lack of passing spaces⁷. Indeed, I noted very little traffic heading in that direction when I visited the vicinity of the school at collection time on the day before the Hearing. In that light, I do not consider the prospect that some might attempt this route as something weighing against the proposal.
41. In terms of air quality, the conclusion of the Council's Environmental Health Officer(s) was, based on the information provided by the appellants, that the operational phase of the proposal itself would have negligible impacts but that cumulative impacts would be high, because of the inclusion of other Medway developments. The advice was that a wider mitigation scheme was needed to deal with these cumulative impacts. That overall approach is in line with that set out in Policy ST 5 which makes reference to local air quality action plans for, amongst others Newington High Street, where there is an AQMA, and the need for innovative proposals for mitigation of adverse impacts.
42. The appellant has put forward a series of mitigation measures. Conditions can be applied to ensure that each dwelling has an EV charging point, and suitable cycle storage facilities. In this way, incoming residents can be encouraged to use modes that have little or no impact on air quality. Moreover, the Agreement under s.106 includes further measures. First, there is an Electric Bike Contribution that feeds into an Electric Bike Scheme. This provides facilities for two electric bikes to be made available for residents of the scheme, and others, and for charging them, or a suitable alternative scheme to be agreed with the Council. The Obligation also includes an Emissions Mitigation Contribution and a linked series of Emissions Mitigation Measures. These are a suite of measures designed to mitigate air quality impacts in the vicinity of the development including, but not limited to, measures set out in the Air Quality Assessment, and any other measures that may be agreed between the appellant and the Council. These may include measures on- and/or off-site.
43. While I take note of what is said on behalf of the Parish Council, it seems to me that the appellant and the Council have approached the issue in a pragmatic way. If mitigation of potential cumulative impacts is not approached in this manner, it is difficult to see how any new housing, or any other form of development that generates traffic, might come forward. This would frustrate the purposes of the Local Plan. Overall, I consider that any air quality impact of the proposal, considered alone, or in association with other proposals, would be successfully mitigated by the measures put forward. On that basis, the scheme would cause no harm in air quality terms.

The Planning Balance

44. As set out above, the Council's inability to demonstrate five years' worth of housing means that paragraph 11 d) ii of the Framework must be applied. This

⁷ I walked some of the lane during the Accompanied Site Visit that followed the Hearing

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sets out that in the circumstances of this case, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, considered as a whole.

45. I have identified adverse impacts in terms of the impact of the proposal on the character and appearance of the area. As set out, while these would bring the proposal into conflict with the development plan, those adverse impacts would be very limited.
46. There is no dispute, between the main parties at least, that the proposal would bring forward benefits. Chief amongst these is the provision of 25 new dwellings in an area where 5 years' worth of housing cannot be demonstrated. That must carry a good deal of weight. Further, of those 25 houses, 10 units would be affordable. That may be the quota required by policy but nevertheless, in an area where there is an acute need for it, the provision of affordable housing is a very weighty benefit.
47. On top of that, the scheme would provide a dedicated drop-off and staff car park for the adjoining primary school that will be built and transferred to the school at nil cost. In my view, the design of this car park is such that it will be a significant improvement over the rather chaotic situation that pertains in relation to the use of the existing hardstanding in this way. The scheme also includes improvements to School Lane, secured by condition, that deal with existing pinch points near the school, and provide for a footpath that will allow pedestrians to walk in more safety along School Lane in the vicinity of the school. These are benefits to which I attach significant weight too.
48. There are a series of environmental benefits that would flow from the scheme, notably in terms of biodiversity, and surface water drainage. The SoCG sets out the economic benefits the proposal would deliver at both the construction stage, and post completion.
49. It is common ground that the Council cannot demonstrate a five-year supply of deliverable housing sites. The parties differ on the extent of the shortfall and as I have set out above, it seems to me that the precise figure tends more towards the appellant's than the Council's. The extent of the shortfall clearly affects the weight that one attaches to new housing that might come forward and make good some of that shortfall.
50. However, that is academic in this case because even if one accepts that the Council's figure is correct, the very limited adverse impact of the proposal is nowhere near sufficient to significantly and demonstrably outweigh the multiple benefits of the proposal, when assessed against the policies in the Framework, taken as a whole.
51. On that basis, it is my conclusion that in these circumstances, the accord with paragraph 11 d ii of the Framework is of sufficient weight, as a material consideration, to justify setting aside the provisions of the development plan and allow the appeal.

Conditions and the Obligations

52. Paragraph 56 of the Framework tells us that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all

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other respects. A list of conditions agreed between the appellant and the Council was presented to me as an addendum to the SoCG. I have considered those conditions in the light of advice in the Framework. I have treated those that are pre-commencement in nature as accepted by the appellant given their inclusion in a SoCG.

53. It was suggested that the commencement condition might be adjusted to two years from the standard three but given the number of matters required to be agreed pre-commencement, which include off-site highway works, and a Traffic Regulation Order, I consider it best to be prudent. A condition is required to set out the approved plans.
54. Given the rather restricted means of access to the site, and the proximity of the school and dwellings, it is necessary to apply a condition requiring the submission and approval of a Construction Environmental Management Plan (CEMP) before development commences. The site has archaeological potential so it is reasonable to apply a condition requiring field evaluation work and to address what should occur if remains of interest are found.
55. As indicated above, there is a significant band of trees along the boundary between the site and the neighbouring school. Given their importance, it is for these, and any other trees on the site, to be protected for the duration of construction works through the imposition of a suitably worded condition.
56. There is the potential for the site to be contaminated as a consequence of previous agricultural practices. Therefore, there is a need to apply a series of conditions to address the potential need for remediation. To protect existing biodiversity, a condition is required to secure an Ecological Mitigation and Enhancement Strategy (EMES).
57. In order to ensure that the quality of the design is carried through to implementation, conditions are required to secure details of the on-site highway elements and external materials. In a similar vein, it is necessary to exert control through conditions over the sustainable drainage scheme, and energy efficiency and carbon reduction measures, along with pre-occupation verification reports.
58. Similarly, the scheme includes a series of boundary treatments around and within the site. A condition is required to control design and implementation though I have adjusted that suggested to include a timetable for implementation in order to cover treatments that are not linked to individual dwellings. Linked to that, conditions are needed to secure details of the landscaping scheme, a landscape a Landscape and Ecological Management Plan (LEMP), and the provision of play equipment.
59. The proposal includes a series of off-site highway works designed to improve access to the site and conditions around the entrance to the site and the adjacent school. These need to be dealt with through a condition that makes reference to the necessary application under s.278. I have taken note of the post-hearing comments of the parties in relation to the point at which these off-site highway works should be completed⁹. In my view, it is reasonable to tie completion to occupation of the fifth dwelling given that the traffic generated by four dwellings would not, in my judgment, trigger any great need for them.

⁹ Document 7

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60. Similarly, speed restrictions on School Lane are proposed as part of the scheme. These would require a TRO. The difference between the parties on this matter is whether the requirements of the TRO are implemented before the tenth dwelling is occupied, or before any of the dwellings are occupied. In my view, it is reasonable to follow the former path for similar reasons to those set out above in relation to the s.278 works.
61. In relation to the site access and visibility splays, highway works between the dwellings and the highway within the site, parking areas, including electric vehicle charging points, and cycle parking, it is necessary to apply conditions to ensure completion before the dwellings are occupied. The same is the case for refuse and recycling storage for the individual dwellings.
62. Given the potential for light pollution affecting bats in particular, conditions are necessary to address external lighting relating to the housing, and to the school car park. In relation to the alter, given the potential for difficulties, it is necessary to apply a condition to deal with the future management of the school car park.
63. Finally, a condition is required to deal with any infiltration measures that might be required as part of the surface water drainage scheme.
64. A completed Agreement under s.106, dated 11 July 2023, was handed up to me at the Hearing. This contains a significant number of obligations which I have considered in the context of paragraph 57 of the Framework. Mirroring the requirements of the CIL Regulations⁹, this says that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
65. Paragraph 3.4 of the Agreement requires a finding on my part that the various obligations meet the tests of the CIL Regulations for them to take effect. I have considered them in that context.
66. There is no disagreement over most of the obligations and on my analysis, the Electric Bike Contribution, the Emissions Mitigation Contribution, the NHS Healthcare Contribution, the Refuse Contribution, the SPA Mitigation Contribution¹⁰, the provision of Affordable Housing¹¹, the Community Learning Contribution, the Highways Contribution, the Libraries Contribution, the Primary Education Contribution, the Secondary Education Contribution, the Secondary Education Land Contribution, the Social Care Contribution, the Waste Contribution, the Youth Services Contribution¹², and the provision and transfer of the School Car Park¹³, all meet the tests set out in paragraph 57 of the Framework, and Regulation 122 of the CIL Regulations.
67. The main parties are in dispute over the Formal Sports Contribution and the Play and Recreation Contribution¹⁴. The former is a financial contribution of £14,825 (index linked) for the improvement of existing, and additional provision of, facilities for formal sport in the Parish of Newington. The latter is a financial contribution of £11,150 (index linked) for the improvement of

⁹ Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended)

¹⁰ All in Schedule 2

¹¹ Schedule 3

¹² Schedule 4

¹³ Schedule 5

¹⁴ Both Part of Schedule 2

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existing, and additional provision of, facilities for play and recreation in the Parish of Newington.

68. I understand that the figures have been based on multipliers in the Council's Open Spaces and Play Area Strategy 2018-2022. Reference has also been made to LP Policy DM 17 in this regard. This sets out that where it is not appropriate to make provision for new open space and sports facilities on site, proposals for residential development can contribute funding for off-site facilities to meet local deficiencies or to the qualitative or quantitative improvement of existing provision. In terms of what is termed formal outdoor sport, contributions are sought to improve the existing facilities. The same is the case for what are called formal play facilities.
69. I visited the Newington Recreation Ground after the accompanied site visit to the appeal site and its surroundings. I saw the building that houses the existing changing facilities. Moreover, I saw the existing children's playground.
70. I heard from the appellant at the Hearing that the Council has recently received significant financial contributions for Formal Sports and Play and Recreation from other developments that have been approved in the Parish of Newington. It is not clear whether these financial contributions have been spent. It appears to me that if the approach of LP Policy DM 17 is to seek to improve existing facilities rather than expand them, there must come a point when those existing facilities reach a point where further improvement is unnecessary.
71. Bearing in mind the significant funds that developments in Newington have already produced, it has not been shown that further funding is necessary to make the enhancements envisaged by LP Policy DM 17. As a consequence, I am of the view that the case for the Formal Sports and the Play and Recreation Contributions have not been made out. I therefore conclude that neither meets the tests of the Framework or Regulation 122 of the CIL Regulations.

Final Conclusion

72. For the reasons given above I conclude that the appeal should be allowed.

Paul Griffiths

INSPECTOR

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APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

Sav Patel	Planning Consultant
Jill Peet	Planning Policy Manager - Swale BC
Matt Duigan	Planning Officer - Swale BC

FOR THE APPELLANT

James Maurici	King's Counsel
Jonathan Buckwell	Director, DHA Planning
Matthew Spry	Senior Director, Lichfields
Richard Hammond	Associate, EDLA
Steve Baughen	HoP – Fernham Homes
Paul Hulham	DHA Transportation

INTERESTED PERSONS

Richard Palmer	Local Councillor
Chris Palmer	Local Councillor
Stephen Harvey	Local Councillor
Martin Conn-White	Local Resident
Karen Conn-White	Local Resident
Eric Layer	Local Councillor
Elaine Jackson	Local Councillor
Tracy Underhill	Local Resident
Martin Conway	Local Resident

DOCUMENTS

Document 1	Appearances for the appellant
Document 2	Council's Notification Letter
Document 3	Agreement under s106
Document 4	Mr Hammond's presentation on landscape and visual matters

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Document 5	Drawing 15058-H-01 Rev P7 – Proposed Access
Document 6	Railton paper on transport and air quality submitted on behalf of the Parish Council
Document 7	Post Hearing submission on TRO and s.278 conditions

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Annex A: Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing number 4176/p/001 Site Location Plan; Drawing number 4176/p/100 (Rev B) Floor Plans – Plot 1; Drawing number 4176/p/100 (Rev B) Floor Plans – Plot 2; Drawing number 4176/p/100 (Rev C) Floor Plans – Plots 3&4; Drawing number 4176/p/100 (Rev C) Floor Plans – Plot 5; Drawing number 4176/p/100 (Rev C) Floor Plans – Plots 6&7, 15&16 (handed); Drawing number 4176/p/100 (Rev C) Floor Plans – Plots 8-10; Drawing number 4176/p/100 (Rev C) Floor Plans – Plots 11&12; Drawing number 4176/p/100 (Rev E) Floor Plans – Plots 13&20; Drawing number 4176/p/100 (Rev B) Floor Plans – Plot 14; Drawing number 4176/p/100 (Rev B) Floor Plans – Plots 17&18; Drawing number 4176/p/100 (Rev B) Floor Plans – Plot 19; Drawing number 4176/p/100 (Rev D) Floor Plans – Plot 21; Drawing number 4176/p/100 (Rev D) Floor Plans – Plot 22; Drawing number 4176/p/100 (Rev C) Floor Plans – Plot 23-25; Drawing number 4176/p/101 (Rev E) Elevations – Plot 1; Drawing number 4176/p/101 (Rev E) Elevations – Plot 2; Drawing number 4176/p/101 (Rev D) Elevations – Plots 3&4; Drawing number 4176/p/101 (Rev D) Elevations – Plot 5; Drawing number 4176/p/101 (Rev F) Elevation – plots 6&7, 15&16 (handed); Drawing number 4176/p/101 (Rev D) Elevations – Plot 8-10; Drawing number 4176/p/101 (Rev F) Elevations – Plots 11&12; Drawing number 4176/p/101 (Rev E) Elevations – Plot 14; Drawing number 4176/p/101 (Rev F) Elevations – Plots 17&18; Drawing number 4176/p/101 (Rev C) Elevations – Plot 19; Drawing number 4176/p/101 (Rev E) Elevations – Plot 21; Drawing number 4176/p/101 (Rev E) Elevations – Plot 22; Drawing number 4176/p/101 (Rev D) Elevations – Plots 23-25; Drawing number 4176/p003 (Rev D) Proposed Site Plan (Rev D); Drawing number 4176/sp/01 (Rev B) Boundary Treatment Strategy Plan; Drawing number 4176/sp/02 (Rev B) Tenure Strategy Plan; Drawing number 4176/sp/05 (Rev B) Fire Strategy Plan; Drawing number 1594/003 (Rev A) Play Strategy; Drawing number 4176/sp03 (Rev C) EV Charging & Parking Strategy Plan; Drawing number 4176/sp04 (Rev C) Refuse Strategy Plan; Drawing number 1594/001 (Rev F) Entrance Landscape Sketch; Drawing number 1594/002 (Rev D) Landscape Masterplan; Drawing number 15058-H-01 P7 Proposed Access; Drawing number 15058-T-02 P2 Vehicle Swept Path Analysis Pantehnicon; Drawing number 15058-T-03 P2 Vehicle Swept Path Analysis Fire Tender; Drawing number 15058-T-01 P3 Vehicle Swept Path Analysis 11.4m Refuse.
- 3) No development shall take place until a Construction Environmental Management Plan (CEMP) that includes details of hours of working; noise, dust and lighting pollution control measures; wheel and chassis cleaning facilities; routing of construction and delivery vehicles to and from site; parking and turning areas for construction and delivery vehicles and site personnel; timing of deliveries; temporary traffic management/signage; and site contact details in case of complaints has been submitted to and approved in writing by the local planning authority. Construction shall be carried out in accordance with the approved CEMP.

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- 4) No development shall take place until a programme of archaeological field evaluation work has been secured in accordance with a written specification and timetable which has been submitted to and approved in writing by the local planning authority. The archaeological works shall be carried out in accordance with the approved details. Should the watching brief indicate remains of interest, no further development shall take place until details have been submitted to and approved in writing by the local planning authority securing safeguarding measures to ensure the preservation of archaeological remains and recording. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until details of tree protection measures across the site have been submitted to and approved in writing by the local planning authority. The tree protection measures shall be implemented in accordance with the approved details prior to any site clearance and the commencement of development and shall be retained for the duration of construction.
- 6) Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not take place until conditions 7 to 10 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the local planning authority until condition 10 has been complied with in relation to that contamination.
- 7) No development shall take place until a desktop study and risk assessment (in the form of a written report), in addition to any assessment provided as part of the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the local planning authority before development commences. The desktop study and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the local planning authority before development commences. The report of the findings must include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland, and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, and archaeological sites and ancient monuments; and (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination CLR11'.
- 8) No development shall take place until a detailed remediation scheme (if required following the desktop study and risk assessment under condition 7) to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings, and other property and the natural and historic environment has been prepared and submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation

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- objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 9) No development shall take place (other than development required to enable the remediation process to be implemented) until the approved remediation scheme (under condition 8) has been carried out in accordance with its terms. The local planning authority must be given not less than two weeks written notice of the commencement of the remediation scheme works. Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to, and approved in writing by, the local planning authority, before the development is occupied.
 - 10) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing to the local planning authority immediately. Development shall cease and an investigation and risk assessment must be undertaken in accordance with the requirements of condition 7, and where remediation is necessary, a remediation scheme must be prepared in accordance with the requirements of condition 8, which shall be submitted to and approved in writing by the local planning authority. The remediation must be completed in accordance with the approved scheme and following completion of the measures, a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 8 are complete and identifying and requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the local planning authority in accordance with condition 9.
 - 11) No development or site clearance works shall take place until an Ecological Mitigation and Enhancement Strategy (EMES) in accordance with details as set out in section 8.0 (Mitigation Measures) in the 'Interim Ecological Assessment' reference KEME9 437, dated July 2021, by Bakerwell has been submitted to and approved in writing by the local planning authority. The development and site clearance shall thereafter be carried out in accordance with the approved EMES.
 - 12) No development shall take place above slab level until 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 a timetable for implementation have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
 - 13) No development shall take place above slab level until details of all external materials have been submitted to and approved in writing by the

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- local planning authority. Development shall be carried out in accordance with the approved details.
- 14) No development shall take place above slab level until a scheme based on sustainable drainage principles has been submitted to and approved in writing by the local planning authority. The scheme shall be based upon the Flood Risk Assessment and the Drainage Strategy Ref.140960-FAH-ZZ-XX-RP-C-0001, dated July 2021, prepared by Fairhurst, and shall demonstrate that the surface water generated by the development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm) can be accommodated without increase to flood risk on or off site. The drainage scheme shall also include (with reference to published guidance): (i) details of the design of the scheme (in conjunction with the landscaping plan where applicable); (ii) details to show that silt and pollutants resulting from the site use can be adequately managed to ensure that there is no pollution risk to receiving waters; (iii) a timetable for implementation; (iv) an operational maintenance and management plan including access requirements for each sustainable drainage component; and (v) proposed arrangements for future adoption by any public body, statutory undertaker, or management company. Development shall be carried out in accordance with the approved details and retained as such thereafter.
 - 15) No development shall take place above slab level until details of the measures to be implemented to address energy efficiency and carbon reduction have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.
 - 16) No dwelling shall be occupied (or alternatively other than in line with an implementation schedule agreed in writing by the local planning authority) until a signed verification report carried out by a qualified drainage engineer (or equivalent) confirming that the surface water systems have been constructed in accordance with the approved scheme and plans, has been submitted to and approved in writing by the local planning authority. The report shall include information and evidence (including photographs) of details and locations of critical drainage infrastructure (such as inlets, outlets and control structures, landscape plans) including as-built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.
 - 17) Before the occupation of the 25th dwelling, a verification report prepared by a suitably qualified professional confirming that all the approved energy efficiency and carbon reduction measures required pursuant to condition 15 have been implemented for dwellings 1 to 15 has been submitted to and approved in writing by the local planning authority.
 - 18) No dwelling shall be occupied until further details of all means of enclosure have been submitted to and approved in writing by the local planning authority. These details shall accord with drawing no.1594/002 Rev D – Landscape Masterplan and drawing no.4176/sp/01C – Boundary Treatment Strategy Plan and include proposed materials, overall height, and siting, and a timetable for implementation. Development shall be carried out in accordance with the approved details and retained as such thereafter.

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- 19) No dwelling shall be occupied until full details of both hard and soft landscape works, any artefacts to be located within the public space(s), and a timetable for their implementation, have been submitted to and approved in writing by the local planning authority. The landscaping scheme shall be based on drawing no.1594/002 Rev D – Landscape Masterplan and should provide images together with planting plans, written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance); schedules of plants noting species, plant sizes and proposed numbers/densities where appropriate; and hard surfacing materials. The details shall include a landscape buffer along the western boundary of the site which shall include a strong mix of trees of native species. The development shall be implemented in accordance with the approved details and any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 20) No dwelling shall be occupied until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP must be based on drawing no.1594/002 Rev D – Landscape Masterplan and shall include the following details: (i) a description and evaluation of the features to be managed; (ii) ecological trends and constraints on site that might influence management; (iii) aims and objectives of management; (iv) appropriate management prescriptions for achieving the aims and objectives; (v) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period); (vi) details of the body or organisation responsible for the implementation of the plan; (vii) ongoing monitoring and remedial measures; and (viii) 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 or bodies responsible for its delivery. The LEMP shall be implemented in accordance with the approved details.
- 21) No dwelling shall be occupied until details of the areas for equipped play facilities, together with the play equipment, seating, and safe surfacing, based on drawing no.1594/003 Rev A – Play Strategy and a timetable for implementation have been submitted to and approved in writing by the local planning authority. The play area(s) shall be provided in accordance with the approved details and retained thereafter.
- 22) No development shall take place above slab level until a s.278 application has been made for off-site highway works to provide a footway, and carriageway widening, as shown on drawing no.15058-H-01 Rev P7 – Proposed Access. The development shall be implemented in accordance with the outcome of that s.278 application and any off-site highway works required by the s.278 application shall be completed before the fifth dwelling is occupied.
- 23) No development shall take place above slab level until an application for a Traffic Regulation Order (TRO) has been made to reduce vehicle speed limits along School Lane, as shown on drawing no.15058-H-01 Rev P7 – Proposed Access. The development shall be implemented in accordance with the outcome of that TRO and any works required by the TRO shall be completed before the tenth dwelling is occupied.

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- 24) No dwelling shall be occupied until the access shown on drawing no.4176/p003 – Proposed Site Plan, including the visibility splays, has been completed. No obstruction of sight, including and boundary treatments, more than 1.2 metres above carriageway level shall be permitted within the visibility splays thereafter.
- 25) No dwelling shall be occupied until the following works between the dwelling and the adopted highway have been completed: (i) footways and/or footpaths, with the exception of the wearing course; and (ii) carriageways, with the exception of the wearing course but including turning facilities, highway drainage, visibility splays, street lighting, street nameplates, and highway structures (if any).
- 26) No dwelling shall be occupied until the areas shown for parking or garaging as shown on drawing no.4176/sp03 – EV Charging and Parking Strategy Plan have been provided, surfaced and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, revoking and re-enacting that Order), shall be carried out on the land so shown, or in such a position so as to preclude vehicular access to the reserved vehicle parking area.
- 27) No dwelling shall be occupied until an electric vehicle charger has been provided for that dwelling in accordance with drawing no. 4176/sp03 – EV Charging and Parking Strategy Plan. Electric vehicle chargers for homeowners within the development approved herein must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling WiFi connection) (or to a subsequent equivalent amending standard). All electric vehicle chargers for visitor spaces shall be provided before the space is brought into use. All electric vehicle chargers shall be retained thereafter.
- 28) No dwelling shall be occupied until details of the secured and covered cycle storage arrangements for that dwelling has been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the approved cycle storage arrangements for that dwelling are in place. All approved cycle storage arrangements shall be retained in their approved form thereafter.
- 29) No dwelling shall be occupied until refuse storage arrangements for that dwelling, including provision for the storage of recyclable materials, in accordance with drawing no.4176/sp/04 – Refuse Strategy, have been provided. All refuse and recycling storage arrangements shall be retained in their approved form thereafter.
- 30) No dwelling shall be occupied until a Lighting Design Plan (which shall be overlain on the landscape plan) which has particular regard to biodiversity, has been submitted to and approved in writing by, the local planning authority. The plan should show the height, external appearance, light intensity, colour and extent of spillage, and locations of external lighting, demonstrating that areas to be lit have taken account of the recommendations of the Bat Conservation Trust and the effects of lighting will be minimised in relation to any disturbance of bat activity. All external lighting should be installed in accordance with the approved Lighting Design Plan and retained as such thereafter.

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- 31) Before the school car park is first brought into use, details of the proposed lighting associated with it, as shown on drawing no.4176/p003 – Proposed Site Plan shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.
- 32) Before the school car park is first brought into use, details of a Parking Management Scheme for the school car park shall be submitted to and approved in writing by the local planning authority. The car park shall be managed thereafter in accordance with the approved details.
- 33) Where infiltration is to be used to manage surface water from the development hereby permitted, it will only be allowed within those parts of the site where details have been first submitted to and approved in writing by the local planning authority. Those details should demonstrate that there would be no resulting, unacceptable risk to controlled waters and/or ground stability. Development shall be carried out in accordance with the approved details.



Appeal Decision

Site visit made on 3 August 2023

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 September 2023

Appeal Ref: APP/V2255/W/22/3305818

Land Adjoining Checkmate Ltd, New Road, Sheerness, Kent ME12 1PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Checkmate Ltd against the decision of Swale Borough Council.
 - The application Ref 22/502499/OUT, dated 17 May 2022, was refused by notice dated 20 July 2022.
 - The development proposed is described as a two storey residential building with associated residential accommodation within the roofslope, associated access, underground parking, amenity provision and refuse/ cycle storage.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks outline permission with all matters reserved except for access. The appeal is accompanied by detailed drawings and the appellant's documents describe these as indicative. I have therefore treated them as such.
3. A Unilateral Undertaking has been submitted with the appeal, dated 23 August 2022. This relates to mitigation for impacts on bird species and I have taken this document into account in the determination of the appeal.

Main Issues

4. The main issues are: (i) whether the proposal would provide an acceptable standard of accommodation for future occupiers, with particular regard to noise disturbance, and; (ii) the effect of the proposal on the character and appearance of the area.

Reasons

Standard of Accommodation

5. The appeal site immediately adjoins a railway line to the north and the road of Brielle Way beyond, which is a busy route serving the nearby town and port. An industrial area exists to the north east of the site and a cluster of residential properties exist opposite, of which some front onto New Road.
6. The appellant has submitted a Noise Impact Assessment (NIA) which considers the effects of nearby noise sources on the residential accommodation proposed. This identifies the main sources of noise at the appeal site to be the constant road traffic and noise from passing trains, which it describes as louder

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- than the road but infrequent, albeit recording 15 trains within the 5 hour survey period.
7. The NIA identifies that with windows open, the internal maximum noise levels at night resulting from passing trains would exceed the recommended guidelines. It assumes that 10 passenger trains would pass the site between the hours of 23:00 and 07:00 and, in the absence of evidence to the contrary, it is likely this would occur repeatedly and throughout the year. On this basis the NIA states that mitigation is required. It states that opening the windows would reduce the sound insulation of the building envelope and that acoustically treated ventilation will be required for all living rooms, dining rooms and bedrooms throughout the development. This would allow the development to meet the recommended internal noise limits without the need to open windows for ventilation and cooling.
 8. The need to keep these windows closed throughout the development would not be conducive to a healthy living environment. It would result in uncomfortable and oppressive conditions for future occupiers with no relief by opening windows, even during clement weather. Based on the evidence, these effects would be frequent and long lasting. While future occupants could still have an option to open their windows, to do so would expose their internal living spaces to unacceptable noise levels. Together these factors would result in an unacceptable standard of accommodation.
 9. The appellant suggests that windows could be openable where they face New Road or are within 90 degrees of the noise sources. However, the effects of this have not been demonstrated in the NIA, and this would appear to be contrary to its recommendations. The fact that other properties on New Road have opening windows does not satisfy me that this would be acceptable, given they are a greater distance from the railway and likely received planning permission some time ago. As such I cannot be satisfied that their circumstances are similar to the appeal scheme.
 10. In terms of the effects of noise from the industrial uses to the north, the NIA found no noise from the nearest use to be audible over the ambient background noise. At the time of my site visit I found New Road itself to be very lightly trafficked, and I have no strong reason to believe that the proximity of the proposal to New Road would cause harm. The effects of these other noise sources would therefore be acceptable.
 11. The NIA recommends the installation of acoustic fencing to two of the site boundaries to reduce noise disturbance in the proposed ground level amenity spaces. Given their location, these would not impede the access to the site and could be secured by condition if the appeal were otherwise allowed. As such the effects on the ground floor outdoor spaces would be acceptable.
 12. In conclusion on this main issue, due to the effects of the proximity to the railway line, and the noise mitigation required as a result, the proposal would create unacceptable living conditions for future occupiers. The proposal would conflict with policies CP4 and DM14 of The Swale Borough Local Plan: Bearing Fruits 2031, adopted 2017 (the LP), insofar as they relate to amenity and the need to create comfortable places. The proposal would also conflict with the objectives of the National Planning Policy Framework (the Framework) relating to creation of healthy communities, including at paragraphs 119 and 124 which

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relate to the efficient use of land while ensuring, among other things, healthy living conditions and securing healthy places.

Character and Appearance

13. The appeal site comprises overgrown grassland and small trees, and is triangular in its shape, reducing in depth to its south western side. The other buildings on this side of New Road vary significantly in their scale, design and appearance. Buildings in the wider area also vary in their distance from the edge of the street. Given this varied character, I consider that an acceptable solution could reasonably be achieved at the reserved matters stage, which would reflect the prevailing character of the surrounding area. While the appeal site is more shallow than the other plots to the north east, I do not find that proximity to the site boundaries would necessarily cause visual harm, depending on the final design.
14. The proposal, as it is before me, would have an acceptable impact on the character and appearance of the area. It would comply with policies CP4 and DM14 of the LP insofar as they relate to design principles and the need to respect local distinctiveness.

Other Matters

15. The site lies within 6km of the Medway Estuary and Marshes Special Protection Area (SPA) and Ramsar Site. As the proposal would entail a net increase in residential units, it could have effects on these sites. However, Regulation 63(1) of the Habitats Regulations¹ indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. As the appeal is being dismissed on other grounds it is not therefore necessary to address this in any further detail.

Planning Balance

16. The Council accept that it cannot demonstrate a 5 year land supply for housing. There is dispute regarding the scale of the shortfall, varying between 4 and 4.8 years. In any event, the provisions of paragraph 11d) of the Framework apply to the appeal. This states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
17. As above, the proposal would create adverse impacts through failing to provide an acceptable standard of accommodation for its future occupiers. The effects would be significant and long lasting, and present conflict with the Framework. I give this harm substantial weight.
18. In terms of benefits, the proposal would provide 5 additional housing units which would contribute to the national objective to boost the supply of homes as well as the local housing stock. These would be on a small site, which the Framework acknowledges to be of a size which can make an important contribution to meeting the housing requirement of an area, and often built out relatively quickly. It would also be a windfall site within an existing settlement with access to services and facilities including public transport. However given

¹ The Conservation of Habitats and Species Regulations 2017

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the concerns above, I am not satisfied that the site could be described as suitable for the purposes of paragraph 69c) of the Framework.

19. The proposal would also give the opportunity to tidy the existing overgrown site and could deliver ecological benefits through new landscaping. In addition, the proposal would generate some economic benefits through the creation of construction jobs as well as ongoing expenditure into the local economy by future residents. Cumulatively, I ascribe these benefits moderate weight, given the scale of the proposal.
20. There is not substantive evidence that other properties on New Road would experience an improvement in noise conditions as a result of the proposal. As such I ascribe this minimal weight as a benefit. Where the proposal may be policy compliant in other respects, these matters are neutral and do not weigh in favour of the development.
21. For the reasons given, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. Consequently, the proposal does not benefit from the presumption in favour of sustainable development.

Conclusion

22. With the above in mind, there are no material considerations, including the approach of the Framework, that are worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

C Shearing

INSPECTOR



Appeal Decision

Site visit made on 11 August 2023

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 October 2023

Appeal Ref: APP/V2255/W/22/3311086

TP Lower Road, Telegraph Pole Lower Road, Faversham ME13 7LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by MBNL against the decision of Swale Borough Council.
 - The application Ref 22/504471/TNOT56, dated 8 September 2022, was refused by notice dated 8 November 2022.
 - The development proposed is an upgrade to the existing 8.0m EE/H3G OMNI Antenna on root foundation. Proposed EE/H3G Phase 7 Monopole complete with wrapround cabinet to be installed on root foundation and associated ancillary works.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. It is not a matter of dispute between the main parties that the proposal complies with the limitations and restrictions of Paragraph A.1 of Class A of Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO). Based on the evidence before me, I have no reason to reach a different view.
3. The provisions of the GPDO under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely based on its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
4. The relevant provisions of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) cited in the Council's reasons for refusal, only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

5. The main issues are:
 - the effect of the siting and appearance of the proposed installation on the character and appearance of the area, and the settings of the Faversham Conservation Area (CA), and the Grade II listed building known as Kosicot, and

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- if any harm is identified whether it would be outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

Character and appearance

6. The character and appearance of the area is predominantly residential, consisting of rows of mostly two storey buildings fronting onto roads. Set into the footway at regular intervals along Lower Road are rows of telegraph poles, street lighting columns and several street trees.
7. The existing Monopole (mast) that would be replaced by the appeal proposal is a thin profiled structure, finished in a dark brown colour, which is substantially similar in scale and appearance to the several timber telegraph poles that are found in the area. It therefore blends in with its surroundings.
8. In contrast, the proposed Monopole would be substantially taller and sited in a different location. Compared to the narrower profiles of the shorter street lights and telegraph poles in the area, the proposed Monopole's thickness would appear bulky, particularly its upper part. This would emphasise its height and considerable visual presence, where notwithstanding its light colour finish, it would be seen towering noticeably above the predominantly 2 storey buildings, street furniture and nearby trees in the skyline.
9. I acknowledge that the proposed Monopole's height would be necessary to achieve network coverage and connections between different 'cells'. However, set in a relatively prominent position, the proposed Monopole would nonetheless be highly visible from nearby properties and for a significant distance along Lower Road, where the carriageway is relatively straight, and from South Road looking towards the junction with Lower Road. The upper part of the Monopole is also likely to be visible above the roof tops of nearby buildings in longer distance views from the surrounding roads and properties.
10. In these views, the height, bulk and utilitarian appearance of the proposed Monopole would appear as an incongruous and visually dominant structure. Even when in leaf, the nearby trees would provide only a limited degree of occasional screening of the proposed Monopole and a green backdrop in views from certain points. They would not provide effective screening of the proposed Monopole, which would contrast markedly with its surroundings in a way that the existing Monopole does not.
11. The scale of the proposal might be comparable to similar installations seen in similar urban environments. However, no details of such installations are before me in this appeal, which I have determined on its individual merits and the evidence before me, including site specific factors and effects.
12. The equipment cabinets would add to visual clutter in the street scene. However, seen in the context of the nearby boundary wall and the mixed boundary fences above it, the cabinets themselves would not significantly detract from the character and appearance of the area. Although some existing cabinets associated with the existing Monopole would be removed, this would not outweigh the proposed Monopole's visual harm.

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13. For these reasons, I conclude that the siting and appearance of the proposal would cause significant harm to the character and appearance of the area. In so far as they are a material consideration, it would therefore be contrary to Policy CP4 and Policy DM14 of The Swale Borough Local Plan – Bearing Fruits 2031 (Adopted July 2017) (the LP), which, amongst others, require high quality design that is appropriate to its surroundings and context, including in respect of the scale, height and massing of development, and causes no significant harm to amenity. I therefore find that the proposal would not be sympathetically designed, contrary to the requirement of Paragraph 115 of the Framework.

Conservation Area

14. The proposal would be sited just outside of the CA, which encompasses a predominantly residential area of the town, including the buildings fronting onto the north side of Ospringe Road and South Road. I have not been referred to any formal appraisal of the CA, however I find that the significance of the CA is generally derived from the rows of attractive period style buildings, predominantly 2 storeys in height, that front onto the roads in a near grid-like linear pattern, giving a sense of formality to the urban character of the area.

15. The main parties refer to the part of the CA within the vicinity of the appeal site as not displaying the highest level of character and interest. Nonetheless, the proposed Monopole would be clearly visible in views from within the CA, particularly from South Road looking towards Lower Road, and from outside of the CA looking into it. It would also be likely to be visible above the roofs of the nearby buildings from Ospringe Road and from St Ann's Road. As such, it would affect the setting of the CA in views into and out of the CA.

16. In these views, the incongruity of the height, bulk and utilitarian appearance of the proposed Monopole would be inconsistent with the prevailing character and appearance of the CA, resulting in harm to its significance. In terms of the Framework, the harm would be less than substantial. Nevertheless, this is a matter of considerable weight and importance, and Paragraph 202 of the Framework requires me to weigh this harm against the public benefits of the proposal in delivering communications infrastructure and improved connectivity.

17. The removal of the existing Monopole and equipment cabinets from the CA would have negligible beneficial effects on its character and appearance, consistent with criterion 3 of Policy DM33 of the LP. However, this would not outweigh the less than substantial harm identified above.

18. I therefore conclude that the siting and appearance of the proposal would harm the setting of the CA. In so far as they are a material consideration, it would therefore be contrary to Policies CP8, DM14 and DM33 of the LP, which, amongst others, require development affecting the setting of, or views into and out of a conservation area, to preserve or enhance the area's special character and appearance.

Listed building

19. Kosicot is a nineteenth century grade II listed building (the LB) that has historical associations with the nearby Chart Gunpowder Mills. Remains of the

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Mills exist nearby, albeit there appeared to be no intervisibility between it and the LB.

20. Based on the evidence before me, the LB's significance seems to derive mainly from this historic association and to a lesser extent its traditional architectural qualities, which include a steeply pitched roof, substantial gabled chimney stacks and lattice-pane windows. Set in a prominent position on the back edge of the footway to Lower Road, the LB's architectural appearance and thus its visual significance, is appreciable in relatively long-distance views along the road. It is in marked contrast to the similar style modern buildings along Lower Road and therefore important when seen in this context.
21. The proposed Monopole would be visible with the LB, primarily in views along Lower Road. Whilst it would not obscure views of the LB, its height, width and incongruity would result in a visually dominant structure that would negatively affect the appreciation of the LB's architectural appearance and thus its setting, causing a moderate degree of harm to its significance. In terms of the Framework, the harm would be less than substantial. Nevertheless, this is a matter of considerable weight and importance, and Paragraph 202 of the Framework requires me to weigh this harm against the public benefits of the proposal as outlined above.
22. I therefore conclude that the siting and appearance of the proposal would harm the setting of the LB. In so far as they are a material consideration, it would be contrary to Policies CP8, DM14 and DM32 of the LP which, amongst others, seek to sustain and enhance the significance of designated heritage assets, including the setting of a LB.

Alternative sites

23. The Framework is clear in Paragraph 115 that the number of mast installations should be kept to a minimum and that the use of existing masts, buildings and structures should be encouraged. Paragraph 117.c) of the Framework states that applications for prior approval for new masts should be supported by evidence that the applicant has explored the possibility of erecting antennas on existing buildings, masts or other structures.
24. The existing Monopole would be replaced by the proposed new installation, which is in a different location and substantially different in scale and appearance. Although it would not increase the number of masts, it is nonetheless a new installation.
25. Details of the geographical search area to achieve the required network coverage capability are not before me in this appeal. The appellant's contention that the search area is constrained is therefore unsubstantiated.
26. I am advised¹ that alternative sites for the installation were supplied with the original planning submission for the existing Monopole. Therefore, the appeal site, which is near to the existing Monopole, was deemed by the appellant to be the most appropriate and sequentially preferable, and no alternative sites were investigated. However, the appellant's appeal statement is somewhat contradictory and in paragraph 3.15, refers to alternative sites having been discounted. Either way, details of that site selection process, such as the

¹ Section 6 of the appellant's Site Specific Supplementary Information document.

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specific alternative sites considered and the reasons why they were discounted are not before me in this appeal.

27. The evidence indicates that the original planning application stage for the existing Monopole dates back several years. Therefore, I cannot be certain that in the intervening years since that Monopole was approved, new buildings, structures or other telecommunications installations presenting opportunities for using existing structures, thus minimising the need for new installations, have not been constructed.
28. No evidence to substantiate a relative absence of tall buildings within the search area have been provided. Furthermore, the search area could be geographically different to when the existing Monopole was considered and the 5G technology would seem materially different. Together, these factors could have a bearing on the search area and site selection process for the proposed installation.
29. I am advised that the proposal would facilitate shared communications equipment removing the need for future masts. However, this does not outweigh the requirement to explore the possibility of erecting antennas on existing buildings, masts or other structures, through a site selection process.
30. For these reasons, I cannot be certain that the site selection process carried out for the original application, of which no details are before me in this appeal, would be applicable to the appeal proposal, and a suitable proxy for carrying out a bespoke up-to-date search.
31. On this basis the appellant has not demonstrated that a robust sequential approach to site selection has been carried out and that all potential opportunities to use existing buildings, structures or masts have been considered. Therefore, I am unable to conclude, on the evidence before me, that the appeal proposal is the only viable solution and there would be no preferable alternative sites for the installation proposed, such that the number of masts are kept to a minimum to achieve the required network coverage and deliver the acknowledged social and economic benefits to the public.
32. I am advised that any alternative site to satisfy the relevant technical requirements would result in the addition of a separate ground-based column elsewhere in close proximity to the existing structure. However, this is of limited relevance to my considerations given that no details of alternative sites are before me in this appeal.
33. For these reasons, the appeal proposal conflicts with Paragraphs 115 and 117.c) of the Framework, the requirements of which are set out above.

Other Matters

34. The absence of schools in close proximity of the site does not outweigh the harm I have identified above.
35. The absence of any harm to highway users does not weigh positively in favour of the proposal, being a likely requirement of any well-designed scheme of this nature.

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Planning Balance and Conclusion

36. Paragraph 114 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks. The need for the proposal is not in question and the proposal's public benefits in delivering communications infrastructure, including for the emergency services network, therefore weighs positively in its favour and carries significant weight in the planning balance.
37. However, the appeal proposal is not sympathetically designed for its context and would cause significant harm to the character and appearance of the area, and less than substantial harm to the settings of the designated heritage assets. I am required by Paragraph 199 of the Framework to give great weight to an asset's conservation when considering the impact of a proposal on the significance of a designated heritage asset. As such, the harm to heritage assets carries great weight in the balance.
38. Based on the evidence before me, the appellant has not demonstrated that a robust sequential approach to site selection has been carried out and that all potential opportunities to use existing buildings, structures or masts have been considered. Therefore, I am unable to conclude, that preferable alternative sites do not exist for the installation proposed, such that the number of masts be kept to a minimum to achieve the required network coverage and deliver the acknowledged social and economic benefits to the public.
39. For these reasons, I conclude that the appeal proposal's harm to the character and appearance of the area, and to the settings of the designated heritage assets, would outweigh the public benefits of the installation. It therefore follows that the appeal should be dismissed.

G Sylvester

INSPECTOR



Appeal Decision

Site visit made on 3 August 2023

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5th October 2023

Appeal Ref: APP/V2255/W/22/3305059

Land east of Lynsted Lane, Teynham ME9 9QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Eden Real Estate Group Ltd and FPC Income and Growth PLC against the decision of Swale Borough Council.
 - The application Ref 21/502609/OUT, dated 10 May 2021, was refused by notice dated 28 June 2022.
 - The development proposed is the erection of up to 10no. residential dwellings with associated landscaping, road layout and parking.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of up to 10no. residential dwellings with associated landscaping, road layout and parking at land east of Lynsted Lane, Teynham ME9 9QN in accordance with the terms of the application, Ref 21/502609/OUT, dated 10 May 2021, subject to the conditions set out in the schedule below.

Preliminary Matters

2. The proposal seeks outline permission, with all matters reserved except for access. I have considered the appeal on this basis and have treated any plans in relation to other matters as illustrative.
3. The appellant has included an additional footway improvement plan with the appeal. As this is stated to be indicative, I do not consider any party would be prejudiced by my consideration of that plan as part of the appeal.
4. The appeal is accompanied by an agreement under Section 106 of the Town and Country Planning Act, dated 22 February 2023 (the S106). This has been taken into account in determining the appeal.
5. Reference is made to the Local Plan Review and associated Issues and Options documents. The Local Plan Review is evidently at an early stage and, given the uncertainty surrounding the final form it may take, I give it minimal weight.

Main Issues

6. The main issues are: whether the development would be suitably located in terms of its accessibility to services and facilities, and, whether the proposal would comply with the Council's settlement strategy.

Reasons

Accessibility

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7. The appeal site comprises part of a field of open grassland which sits outside, but adjacent to, the settlement boundary of Teynham. Teynham is a Rural Local Service Centre (RLSC) as identified by Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the LP).
8. The LP acknowledges that RLSCs such as Teynham provide an array of facilities, in part serving surrounding populations and with some sharing of facilities with nearby smaller settlements. The appeal site is located close to a number of services and facilities within Teynham itself. I observed this to include both convenience and specialist retail stores, eating establishments including a pub and takeaways, and schools. These would be easily accessible from the appeal site, particularly given improvements to the pedestrian environment at the northern side of Lynsted Lane, as discussed below.
9. I also note the grant of another planning permission within the Teynham area referred to by the appellant, which would include employment uses and community facilities¹. If implemented, this would deliver additional facilities which could be used by occupants of the site.
10. There are bus stops located a short distance from the appeal site on London Road, which provide reasonably frequent services towards larger nearby settlements. While there may be changes to their services in the short term, there remains the ability for a bus service to be utilised close to the appeal site. Teynham is also served by train services towards London and Dover and settlements between. While Teynham station is a greater walk to the north, I found this was a reasonably attractive route of footpaths through residential areas and was well lit. It may also be an attractive route for cyclists, given the short distance of London Road which would need to be navigated to reach the station. Together these public transport connections provide an attractive alternative to private car use.
11. While Teynham lacks certain facilities, including some health facilities and a secondary school, given the above public transport connections, attractive alternatives to car use exist to provide linkages to those facilities elsewhere. Indeed the LP acknowledges that populations in RLSCs will travel to other centres to meet some needs and includes Teynham within an indicative area with accessibility to most or all services. Furthermore, the proposal includes contributions to certain local infrastructure intended to mitigate its impacts, and these are discussed further below.
12. For these reasons taken together, the site is suitably located in terms of its accessibility to services and facilities, and to sustainable transport options to access facilities further afield. This would comply with the objectives of the National Planning Policy Framework (the Framework) relating to promotion of sustainable transport and availability of a choice of transport modes.

Settlement Strategy

13. The reason for refusal refers to conflict with policies ST1 and ST3 of the LP. Policy ST3 refers to the use of previously developed land within defined built up area boundaries, and the use of sites allocated by the LP to achieve the settlement strategy set out. It states that RLSCs will provide the tertiary focus for growth in the Borough and the primary focus for the rural area. It states

¹ Swale Borough Council reference 16/507689/OUT

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that in the open countryside, outside the built-up area boundaries, development will not be permitted unless supported by national planning policy and able to demonstrate that it would contribute to protection and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. Policy ST1 requires, among other things, development proposals to accord to the Local Plan settlement strategy.

14. The proposal would not use previously developed land within the built up area boundary nor be on an allocated site, which are the opening points of ST3 which underlie its settlement strategy. As such there is conflict with policies ST3 and ST1 and the proposal would be in conflict with the Council's settlement strategy.

Other Matters

Planning Obligations

15. A Section 106 Agreement has been completed in conjunction with Swale Borough Council. This includes a number of obligations to come into effect if planning permission is granted. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 and in the Framework. Regulation 122 states that an obligation may only constitute a reason for granting planning permission if it meets the tests.
16. Contributions towards community learning, libraries, primary and secondary school education, social care and youth services, bins and waste have been adequately demonstrated to be necessary to mitigate the effects of the development. These sums are not in dispute and, based on the evidence including the County Council's Developer Contributions Guide 2023, I am satisfied that they meet the required tests for obligations. This is similarly the case for the formal sports and play equipment contributions, for which the need has been evidenced by the Open Spaces and Play Strategy 2018-2022, and which also meet the required tests.
17. The proposal would create the need for the obligations to be monitored, which would not otherwise have existed if not for the development. As such, and based on the evidence before me, this would also be an acceptable obligation.
18. A contribution towards the acquisition of a site for a new secondary school off Quinton Road, Sittingbourne is included at £2635.73 per applicable house, or £658.93 per applicable flat. It is stated only that the contribution reflects local land prices without further supporting information relating to this particular site or how the amount has been calculated to be fairly and reasonably related in scale and kind to the appeal scheme, particularly as a separate secondary school contribution is also secured. In the absence of narrative on this matter I have not taken this contribution into account as a reason for granting planning permission.
19. Overall, from the information submitted with the appeal and the subsequent representations, I am content that with the exception of the Secondary Land Contribution, all the monies requested meet the necessary tests and can be taken into account.

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Protected Sites

20. The appeal site lies within the zone of influence of the Swale Special Protection Area (SPA) and Ramsar Site, being a Wetland of International Importance. These are afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The qualifying features of the SPA include supporting an important assemblage of birds including Brent geese, Dunlin and gadwall, and the Ramsar provides a complex of brackish and freshwater, floodplain grazing marsh with ditches, and intertidal saltmarsh and mudflats. This supports internationally important numbers of wintering waterfowl including breeding wetland birds and diverse wetland plants and invertebrates.
21. The proposal, through introducing new permanent residents to the area, would create additional recreational disturbance to the sites. As such the proposal is likely to have a significant adverse effect on the internationally important interest features of the site either alone or in combination with other plans and projects. The Council have adopted a strategic approach to mitigation, in the form of a Strategic Access Management and Monitoring Strategy (SAMMS). The mitigation measures this contains includes provision of wardens, visitor access management, education and signage. I note that Natural England consider the agreed strategic solution to be ecologically sound and are satisfied that the measures would mitigate against the potential recreational impacts of the development. I have no strong reason to reach a different conclusion.
22. The S106 submitted with the appeal includes a financial contribution per dwelling towards the mitigation measures contained in the SAMMS. Based on the evidence before me, I am satisfied that compliance with this requirement would ensure that the proposal would not adversely affect the integrity of the sites.

Heritage Assets

23. The main parties find the site to form part of the setting of several listed buildings which front onto London Road to the north. Based on the evidence, those closest to the appeal site include numbers 70, 72 and 74 London Road and The George Inn, which are grade II listed. Their setting comprises the historic linear development which lines both sides of London Road and which formed part of a trade route between London and Kent towns. Historically the appeal site has been an orchard and agricultural land. While the appeal site contributes to the rural backdrop of the settlement, I find its contribution to the setting of the listed buildings and their significance to be limited. This is particularly given the gaps and intervening structures between the listed buildings and the appeal site and as I find their significance to be more closely derived from the more busy route of London Road. Based on the evidence, I do not consider the proposal before me to cause harm to the setting of those listed buildings, rather it would be preserved. Details of matters including the final site layout, scale and appearance of the development would inevitably follow at a later stage.
24. I do not consider the site to form part of the setting of other listed buildings located further to the east, nor the setting of the Cellar Hill and Green Street Conservation Area, given the distance of separation and intervening structures. Neither is there substantive evidence to show that the proposal would cause structural damage to those nearby listed buildings.

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Highways

25. Notwithstanding the appellant's surveys of local conditions, the evidence provided by third parties show existing conditions on the northern part of Lynsted Lane to be chaotic and harmful to highway and pedestrian safety. This is in part due to existing obstructions created by parked vehicles. Any increased vehicle movements here, arising from the proposal, would be likely to worsen these existing conditions. The appellant has proposed a suite of potential alterations and measures on Lynsted Lane to assist the ability of the highway to accommodate additional highway impacts, and I note these have been subject to extensive discussion with the highways authority. These include the introduction of an additional footway and a narrowed section of carriageway giving priority to southbound traffic. The drawings showing those works are annotated as indicative, presumably because the works relate to land outside the appellant's control, and separate consent would therefore be required from the highways authority.
26. I appreciate this could entail a substantial change to the northern part of Lynsted Lane for local residents and the proposal would likely entail the loss of some existing on street parking opportunities utilised by residents and users of the facilities on London Road. However, there is not substantive evidence that the loss of spaces would cause harm to highway safety elsewhere, particularly as the proposal could accommodate parking spaces to help compensate for those lost. These could be close to the existing properties on Lynsted Lane and linked via safe pedestrian routes. Indeed, given the existing conditions evidenced, the proposal has the ability to deliver benefits to highway safety on Lynsted Lane and the London Road junction.
27. I cannot assume that the proposed highway signage and markings would be ignored by road users, and this would be a matter for the Council should it occur. I also note the comments of the highways authority quoted in relation to a nearby scheme where the use of Lynsted Lane was considered unacceptable. However, I understand this related to a proposal for a greater number of houses further to the south and, in the absence of full details of that proposal, I cannot be certain that it is comparable to the appeal scheme in terms of its highways impacts.
28. Having considered the evidence, including comments of technical consultees and references to independent review and safety audits for the works, I am satisfied that an appropriate solution exists for the works to the highway, which would mitigate for the effects of the proposal.
29. As matters of site layout are yet to be established, I have no strong reason to believe that adequate parking for the development, and for those lost on Lynsted Lane, could not be accommodated on the site for future residents in line with the Council's requirements. Conditions are recommended in respect of these matters as set out below.

Further Matters

30. With regard to prematurity, the Framework sets out that refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination, and neither do the circumstances set out in paragraph 49 of the Framework apply to the appeal.

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31. I have had regard to the appellant's air quality assessment and the comments of the Council's technical advisor on this matter, who finds the impacts of the development to be acceptable to nearby receptors and the Air Quality Management Area. While there may be additional traffic at the junction with London Road, the evidence suggests that the impacts would be negligible. There is not substantive evidence which would lead me to reach a different conclusion.
32. In light of the evidence relating to ecology on the site, the proposal would have acceptable ecological effects and appropriate enhancements could reasonably be secured by condition, alongside a scheme of landscaping forming the reserved matters. There is not substantial evidence to demonstrate the proposal would give rise to significant soil erosion, and the management of surface water drainage can also be dealt with by condition. I am satisfied that the proposal has the ability to include suitable sustainability credentials and promote the use of sustainable transport measures.
33. The proposal would result in the loss of the existing agricultural use of the site, which interested parties consider to be of high quality. There is not evidence of conflict with a development plan policy in this regard, and the Framework refers only to significant development of agricultural land, which I do not consider applies here. There is not substantive evidence of other material considerations of sufficient weight which would lead me to find the loss of the existing use to be unacceptable.
34. I note concerns for the unreliable nature of existing infrastructure in the area, including water, drainage and power supplies. However there is not evidence that the effects of the proposal on this would be harmful nor that the proposal could not reasonably be accommodated into the network. In terms of other infrastructure impacts, the proposal would make financial contributions to those services where they have been demonstrated to be necessary.
35. The open and undeveloped character of the appeal site would change as a result of the proposal. However it would adjoin existing development to the north and west, and would be nestled into the edge of the settlement. Details of appearance, layout and scale would be considered at the reserved matters stage, and I see no reason why the development could not respect the character of the surrounding area including the adjoining historic development pattern and its edge of settlement location. Given its position it would not contribute harmfully to coalescence with other settlements or clusters of development.
36. While acknowledging that the existing houses on Lynsted Lane are set close to the edge of the road, given the depth of the appeal site, an appropriate relationship could be achieved to protect the living conditions of their occupants. There may be increased noise and some light emissions from the site which do not currently exist. However, given the scale and location of the development these matters would not cause unacceptable harm.
37. I appreciate local concerns that the proposal may form part of an intended wider development including land to the south. However, regardless of intentions, my assessment must relate to the appeal scheme before me.
38. I note the comments on the need for local communities to have a greater say in what is built in their neighbourhood. However, statute requires that

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applications be determined in accordance with the development plan, unless material considerations indicate otherwise. While there is significant local opposition to the scheme, I have considered the matters they have raised, and I do not consider that the quantum of objections in itself amounts to a material consideration of sufficient weight to dismiss the appeal.

Planning Balance

39. The Council accept that it does not have a five year land supply for housing. The Council consider the supply to be 4.83 years, whereas the appellant considers the shortfall to be far more significant at around 3.5 years, quoting a fairly recent appeal decision. However, the Inspector in that appeal did not reach a finding on the land supply dispute².
40. As a consequence, paragraph 11d) of the Framework applies and this states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
41. It has been found that the proposal would conflict with the Council's settlement strategy by virtue of its location outside the defined boundaries of Teynham and not being an allocated site. I ascribe this harm significant weight.
42. In terms of the benefits, the proposal would deliver up to ten homes which would make an important contribution to the delivery of homes in the Borough. This is of particular importance given the identified shortfall in land for housing, even if the Council's figure of a 4.83 year supply were used. These homes would be on a medium sized site, which the Framework identifies as one which could make an important contribution to meeting the housing requirement of an area and which can often be built-out relatively quickly. These would be on the edge of an existing settlement with good accessibility to services and facilities by means other than by private car, including those further afield. In addition, the development would deliver economic benefits through the construction process and the economic contributions of future occupiers. Taken together, I ascribe these benefits substantial weight.
43. The financial contributions to infrastructure, and alterations to Lynsted Lane would mitigate for the effects of the proposal, rather than being benefits. As such they do not attract weight in favour of granting planning permission.
44. In conclusion, even if I am to accept that housing land supply figure given by the Council, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. As such, the proposal benefits from the presumption in favour of sustainable development. Although I have found the proposal would conflict with the development plan as a whole, material considerations, in this case the approach of the Framework, indicate a decision other than in accordance with it.

Conditions

45. The Council has provided a list of suggested conditions that it considers would be appropriate. I have considered these in light of the Planning Practice

² Appeal decision APP/V2255/W/22/3311224 para 52

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Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.

46. A condition is necessary to secure matters of appearance, landscaping, layout and scale, with the standard conditions specifying when the reserved matters applications must be submitted and when the development must be commenced by. A condition listing the approved drawings in relation to access is also necessary to provide clarity.
47. Details of a surface water drainage system and its maintenance should be submitted for approval, and for heritage reasons, details relating to archaeological evaluations should be submitted to the Council. These should be pre-commencement to ensure they inform the rest of the development. Given the drainage condition would secure its delivery in accordance with the approved details, a further requirement for a verification report does not meet the test of necessity. Neither would a condition specifying what would not be acceptable for surface water management, given the Council is able to assess the submitted details under the condition imposed.
48. To help protect the living conditions of nearby occupants and in the interests of highway safety, a Construction Method Statement is necessary. This should be satisfied prior to commencement to ensure it underlies all construction works. Also to protect living conditions, conditions are necessary in respect of construction hours and pile driving and I have removed the tailpieces from those conditions to provide certainty.
49. For environmental reasons, a condition relating to water consumption is necessary and I have removed reference to actions which may overlap with building regulations. For the same reason, measures to increase energy efficiency are also conditioned. For ecological reasons, conditions are imposed restricting external lighting and to ensure ecological enhancements. To ensure the safety of future occupants, details of security measures are also secured.
50. To support and encourage sustainable means of transport, a travel plan and details of cycle parking are necessary, and the houses should be fitted with appropriate broadband to ensure high quality digital infrastructure. In the interests of highway safety, conditions are imposed to ensure appropriate visibility for vehicle and pedestrians at the access.
51. I have amended the Council's suggested condition in respect of works to be carried out outside the site, primarily because I understand that land to lie outside the appellant's control and consent for the works would be required from the highways authority. The condition instead requires a final scheme to be submitted for approval, allowing it to be finalised with the highways authority. In light of the evidence before me, I am satisfied that such works are capable of being carried out and within the time-limit imposed by the permission.
52. In turn, to ensure that the on street parking spaces which would be lost as a result of the highway works are provided in a safe location, details of a scheme to provide additional spaces on the site, to serve residents outside the development, should be provided, with the quantum dependant on the final highways scheme agreed. Such details should be provided prior to commencement to ensure they inform the layout from the outset.

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53. I have removed reference from the conditions to a footpath to the north eastern corner of the site, given the absence of evidence of why this is necessary. This would not, however, preclude this from occurring in the future.
54. As the application is in outline, and as final details of the development would follow under reserved matters submissions, it is not necessary to condition details of the mix of housing, landscaping, appearance through a development brief, or materials to be used for the new houses, as these would inevitably follow at a later date for the Council's consideration. As matters of electric vehicle charging points now fall under building regulations, and in the absence of evidence of a planning reason to impose different requirements, it is not necessary to condition the provision of charging points.
55. Given the position of the site behind the buildings which address London Road, and in the absence of evidence to the contrary, I do not find that details of noise levels and noise insulation would meet the test of necessity for planning reasons.
56. In the absence of evidence as to why this level of detail is necessary for planning purposes, I have not conditioned further details of matters listed including service routes, retaining walls, sewers and drains. Neither would it be necessary to condition the delivery of certain features listed, including carriageway and street names. These are best placed for management dealing with the development.
57. I have not imposed conditions removing permitted development rights, either in respect of alterations to the houses or means of enclosure. There is not strong evidence as to why this would be necessary in this case, and I am mindful that the PPG is discouraging of a generalised approach. Neither do I find it necessary to place a restriction on the erection of telegraph poles within the development as there is not evidence to suggest why such a restriction is necessary.

Conclusion

58. 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 allowed.

C Shearing

INSPECTOR

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Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters" shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Applications for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall commence until a scheme of works for Lynsted Lane, to facilitate the safe movement of traffic and pedestrians arising from the development, has been submitted to and approved in writing by the local planning authority. The development shall not be occupied until those works have been constructed in accordance with the approved details.
- 5) Prior to the commencement of development, details shall be submitted to and approved in writing by the local planning authority of a scheme to provide parking spaces on the site intended to serve residents outside the appeal site. The development shall be carried out in accordance with the approved details and the approved parking spaces shall be available for use prior to the first occupation of any new dwelling.
- 6) Prior to the commencement of development, details of surface water drainage for the site shall be submitted to and approved in writing by the local planning authority. These shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm) can be accommodated and disposed of within the site without increase to flood risk on or off-site, and shall include details of the maintenance of the drainage system and the management of silt and pollutants. The development shall be carried out in accordance with the approved details and shall be so maintained.
- 7) Prior to the commencement of development, details shall be submitted to and approved in writing by the local planning authority to demonstrate how the development will offset biodiversity loss and enhance the site's biodiversity value by a minimum of 10% when compared to the pre-development baseline. This will have regard to the recommendations in the Preliminary Ecological Appraisal by Native Ecology, dated May 2021. The development shall be carried out in accordance with the approved details.
- 8) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
 - i) Archaeological field evaluation works in accordance with a specification and written timetable which have been submitted to and approved in writing by the local planning authority, and
 - ii) Following the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording, in accordance

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- with a specification and timetable which has been submitted to and approved in writing by the local planning authority.
- 9) Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The construction process shall be carried out only in accordance with the approved details. These shall include:
- Routing of construction and delivery vehicles;
 - Parking and turning areas for construction and delivery vehicles, personnel and visitors;
 - Timing of deliveries;
 - Areas for loading and unloading of plant and materials and areas for their storage;
 - Security hoardings;
 - Any temporary traffic management and signage;
 - Wheel washing facilities;
 - Measures to control emission of dust, particles and dirt;
 - A scheme for recycling or disposing of waste resulting from the construction works;
 - A scheme for monitoring and reporting and mitigation of vibration levels at surrounding residential properties where they are likely to exceed 1mm/s measures peak particle velocity;
 - Methods for dealing with complaints from local residents.
- 10) No construction works shall be undertaken on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 07:30- 18:00, Saturdays 08:00- 13:00.
- 11) No impact pile driving shall be undertaken on any Saturday, Sunday or Bank Holiday, nor any other day except between 09:00 and 17:00 Monday- Friday.
- 12) Prior to the construction of any dwelling above the damp proof course, details of measures to increase energy efficiency and thermal performance, and to 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 details.
- 13) Prior to the commencement of development above the damp proof course of any dwelling, details shall be submitted to and approved in writing by the local planning authority of measures to minimise the risk of crime and meet the security needs of the development. The development shall be carried out in accordance with the approved details.
- 14) The access to the site shall be carried out in accordance with the details shown on drawing 49905/5501/001 Rev.E (Pages 1 and 2). Prior to the first occupation of the development, the visibility splays shown on that plan shall be provided and maintained free of obstruction above the height of 0.9m above the carriageway level, and shall be so maintained at all times.

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- 15) Prior to the occupation of any part of the development, pedestrian visibility splays behind the footway on both sides of the access shall be provided and maintained with no obstructions over 0.6m above the footway level.
- 16) Prior to the first occupation of any part of the development, details of secure cycle parking facilities shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and those cycle parking facilities shall remain available for use at all times.
- 17) Prior to the first occupation of any part of the development, a travel plan, showing objectives and modal split targets, together with a time-bound programme of implementation and monitoring, review and update, shall be submitted to and approved in writing by the local planning authority. The travel plan shall be implemented in accordance with the approved details.
- 18) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day.
- 19) No external lighting shall be installed within the site until details have first been submitted to and approved in writing by the local planning authority. This shall include details to demonstrate its effects on bat activity. The external lighting shall be installed only in accordance with the approved details and shall be so maintained.
- 20) All new dwellings shall be capable of installing fixed telecommunications infrastructure and high-speed fibre optic connections.

End of Schedule



Appeal Decision

Site visit made on 11 August 2023

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5th October 2023

Appeal Ref: APP/V2255/W/22/3309840

**Land Adjacent to The Coach House, Chalkwell Road, Sittingbourne, Kent
ME10 2LY**

- 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 D Creary (Architectural Designs) against the decision of Swale Borough Council.
 - The application Ref 22/502726/FUL, dated 3 August 2022, was refused by notice dated 1 September 2022.
 - The development proposed is the demolition of the existing garage and erection of a one bedroom, two storey dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The address on the application form and drawings refers to the location of the appeal site as The Coach House (TCH). However, TCH is the adjacent detached dwellinghouse. Therefore, for the banner heading above, I have used the address from the Council's decision notice as it accurately describes the appeal site's location, and it coincides with the address stated in the appellant's appeal form. I am satisfied that assessing the appeal on this basis would cause no prejudice to any party.
3. I am advised that the appeal site lies within the zone of influence of the Medway Estuary and Marshes Special Protection Area (SPA), which is protected as a European site of nature conservation importance and subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (as amended). This is a matter which I will return to later in this decision.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the living conditions of the occupiers of TCH, with particular regard to outlook and access to light, and the occupiers of the properties on Staplehurst Road and Alexander Court, with particular regard to privacy.
 - Whether the proposal would provide adequate living conditions for future occupiers of the proposed dwelling, with particular regard to the amount of outdoor amenity space, and
 - The effect of the proposed development on access to the nearby garages.
-

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Reasons

Living conditions of nearby occupiers

5. The proposed dwelling would extend alongside the rear garden of TCH, and beyond its rear wall. The closest first floor window in the rear wall of TCH is clear glazed and from the appeal evidence serves a bedroom. This window provides occupiers with a relatively wide field of vision from out of this room.
6. Set at such a close distance to the common boundary with TCH, the height, depth and solidity of the side elevation of the proposed dwelling would have a harmfully dominant and overbearing effect on the outlook of the occupiers of TCH, when viewed from the bedroom window and from the closest parts of the rear garden.
7. The evidence before me does not include a technical assessment of daylight and sunlight. Nonetheless, I have taken account of the angle of the sun as it moves through the sky and the orientation of the proposed dwelling relative to TCH, and its relatively wide rear garden. The garden and rear facing windows in TCH have a relatively open aspect towards the east and through to the south. Whilst the proposed dwelling would be set close to the common boundary, I am satisfied, based on these factors combined, that sufficient daylight and sunlight would continue to reach the rear facing rooms and garden of TCH, which would not suffer harmful overshadowing.
8. The proposed dwelling's bedroom window is relatively wide and would provide future occupiers with views across nearby gardens, parking areas and towards the rear windows of nearby dwellings. Some overlooking is a common characteristic in built-up areas where back-to-back-relationships exist between buildings. However, given the distances separating the bedroom window in the proposed dwelling from the rear walls of the properties in Staplehurst Road and Alexander Court, views from out of the bedroom window would not lead to harmful overlooking and a loss of privacy for nearby occupiers.
9. I acknowledge that the aforementioned separation distance would fall slightly short of the Council's guidelines¹ for extending a dwelling. Although I have had regard to these guidelines, I have assessed the appeal, which is for a new dwelling and not an extension to a dwelling, on the information before me and what I experienced at the site visit. Having done so, the conflict with the guidelines does not alter my conclusion on this main issue.
10. For these reasons, I conclude that the appeal proposal would harm the living conditions of the occupiers of TCH, with particular regard to outlook. As such, it would be contrary to Policies CP4 and DM14 of The Swale Borough Local Plan – Bearing Fruits 2031 (Adopted July 2017) (the LP), which, amongst other requirements, seek to ensure that development would cause no significant harm to amenity.
11. Insofar as is relevant to this case, the policies referred to above are consistent with Paragraph 130.f) of the National Planning Policy Framework (the Framework), which states that planning decisions should ensure that developments create places with a high standard of amenity for existing users.

¹ Swale Borough Council Planning and Development Guidelines No. 5 – Designing an Extension: A Guide for Householders.

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Living conditions for future occupiers

12. The private rear garden to the proposed dwelling would be relatively modest in size relative to others in the locality. However, given the low occupancy levels of the proposed 1 bedroomed dwelling, the garden would have sufficient capacity to accommodate a commensurately modest outdoor seating area for relaxation and for domestic purposes, such as drying washing. Furthermore, the broadly rectangular shape of the garden would be practical and conveniently accessible to the living area within the dwelling, aiding usability, and would accommodate bin and cycle storage.
13. For these reasons, I conclude that the proposed garden area would contribute to providing adequate living conditions for future occupiers, consistent with LP Policies CP4 and DM14, the relevant objectives of which are set out above.

Access to nearby garages

14. The evidence indicates that the appeal proposal would be built partly on third party land within the concrete surface forecourt area to the nearby garage block serving residential properties on Staplehurst Road. This would reduce the space available for the parking and manoeuvring vehicles, which an interested party suggests is already tight when the parking spaces are in use.
15. Consequently, the proposal would make it more difficult for a driver to manoeuvre and park a vehicle within the forecourt. Vehicle access to some garages would be more difficult than it currently is, even for a small car, if not prevented. Car parking could be displaced onto nearby roads, causing inconvenience to residents who may not be able to park vehicles in convenient locations relative to their homes. However, based on the evidence before me and my observations of the availability of parking on nearby roads, which I note were a snapshot in time, I am not persuaded that this would lead to harm to the living conditions of nearby occupiers. I note the Council raises no objection in relation to parking.
16. For these reasons the proposal would comply with the objectives of LP Policies CP4 and DM14, which seek to create accessible places where development causes no significant harm to amenity.
17. The deeds of the nearby properties may provide protection of access rights to the forecourt and garages, however that would be a civil matter between the relevant parties that would fall outside of planning control. As such, it does not alter my conclusion on this main issue.

Other Matters

18. Given the appeal proposal's location, its resident population is likely to contribute to increased visitor numbers to the SPA. In turn, this would exert increased recreational pressure on the SPA, leading to disturbance and likely significant adverse effects on the bird species for which the SPA is designated.
19. I am advised that the appellant has paid the requisite tariff-based contribution, using the Council's standard proforma, towards the delivery of the strategy to mitigate the potential adverse in-combination effects of new housing development and visitor pressure on the qualifying bird species within SPA. Accordingly, the parties agree that the appeal proposal would mitigate its effects on SPA.

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20. However, a copy of the proforma is not before me and therefore I cannot be certain that the proposed development would not harm the integrity of the SPA. Nevertheless, in light of my findings on the main issues above, it is not considered necessary to look at the harm to the SPA in detail, given that the proposal is unacceptable for other reasons.
21. I acknowledge that the proposal would adhere to quantitative national internal space standards and would provide adequate storage for bins and cycles. The design of the appeal proposal would not harm the character and appearance of the area. Designated heritage assets would not be harmed. However, all well designed schemes should comply with these standards and not cause harm in these respects. As such, an absence of harm in this instance does not weigh either in favour or against the appeal proposal.
22. I note the planning history of the appeal site, however I am not bound by the decisions of the Council and as such this is a matter to which I can attach limited weight in my decision.

Planning balance

23. In the context of the development plan, the appeal proposal would conflict with policies CP4 and DM14 of the LP, which I have found to be broadly consistent with Paragraph 130.f) of the Framework. As such, I give significant weight to the appeal proposal's conflict with these policies.
24. The proposal would make efficient use of a small site in a location where there is good access to a range of services, facilities and employment opportunities, and where housing is supported in principle. Occupancy of the proposed home would deliver long-term economic and social benefits through residents supporting these facilities and services. Construction works would generate short term employment opportunities and economic activity. The evidence indicates that the proposal would be both energy efficient and lead to a reduction in emissions relative to the Building Regulations standards in accordance with the Council's suggested conditions.
25. However, given the scale of the proposed development and its likely occupancy levels, these economic, social and environmental benefits are modest and attract limited weight in its favour. Collectively, they are insufficient to outweigh the appeal proposal's conflict with the development plan when considered as a whole.
26. Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration, and the Council has confirmed that it cannot currently demonstrate a five-year supply of deliverable housing sites in its area.
27. Accordingly, the policies which are most important for determining the application are deemed out-of-date in accordance with Paragraph 11.d) of the Framework. It follows that planning permission should be granted, unless either the Framework's policies that protect areas or assets of particular importance provide a clear reason for refusing the development proposed, or the adverse impacts of granting permission would significantly and

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demonstrably outweigh the benefits, when considered against the policies in the Framework as a whole.

28. For the reasons given above, I am unable to conclude that the proposal would not harm the integrity of the SPA. Therefore the Framework's protection of habitats sites within Footnote 7 to paragraph 11.d)i. provides a clear reason for refusal.
29. Even if Framework's presumption under Paragraph 11.d)ii. applied to the appeal proposal, the benefits I have attributed to the construction and occupation of the proposed dwelling, and its contribution to boosting housing supply and making efficient use of land within an existing settlement, would be modest. These benefits are outweighed by the importance the Framework attaches to the expectation that a development's design should provide a high standard of amenity for existing users, and which the appeal proposal fails to achieve.
30. Consequently, the appeal proposal's adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. Therefore, the proposal does not benefit from the presumption in favour of sustainable development under Paragraph 11 of the Framework.

Conclusion

31. For the reasons given above and having considered all matters raised, I conclude that the proposed development conflicts with the development plan as a whole. The material considerations, including the aforementioned potential benefits of the proposal and the associated provisions of the Framework, do not carry sufficient weight to outweigh the harm, nor do they indicate that the appeal should be determined other than in accordance with the development plan. The appeal should be dismissed.

G Sylvester

INSPECTOR

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The Planning Inspectorate

Appeal Decision

Site visit made on 15 August 2023

by **A James BSc (Hons) MA MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 October 2023

Appeal Ref: APP/V2255/W/22/3312007

Oast View, Track to Kingsdown Church, Kingsdown, Kent ME9 0AS

- 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 Mark Colby against the decision of Swale Borough Council.
 - The application Ref 22/503972/FULL, dated 11 August 2022, was refused by notice dated 21 October 2022.
 - The development proposed is new 3 bedroom dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the address from the decision notice, as this more accurately represents the location of the development.
3. While it is not within my remit to determine landownership, third parties question whether appropriate notice has been served to all landowners and agricultural tenants. The appellant is satisfied that the correct notice has been served and that matters relating to unregistered land can be dealt with through the conveyancing process. I have no reason to reach a contrary conclusion to the appellant on this matter.
4. Both parties agree that less than substantial harm would be caused to the significance of adjacent heritage assets, albeit that this could be argued to be neutral. As a result of the evidence before me, third party comments and my site visit, I have elevated this matter to a main issue. Both parties have had the opportunity to comment and I have taken all comments received into consideration.

Main Issues

5. The main issues are:
 - whether the appeal site represents a suitable location for the proposed development;
 - the effect of the proposed development on the character and appearance of the area, having particular regard to the Kent Downs Area of Outstanding Natural Beauty (AONB);
 - the effect of the proposed development on the setting of the Grade II listed buildings, known as the Church of St Catherine and Church Oast; and,
-

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- whether the proposed development would provide sufficient parking for the new dwelling, having particular regard to highway safety.

Reasons

Location

6. Policy ST3 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) sets out the settlement strategy for the borough. It gives priority to development of previously developed land within the defined built up boundaries and on allocated sites. The appeal site falls within the open countryside, which is the lowest tier of the settlement hierarchy. In such areas, Policy ST3 states that 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.
7. The appeal site previously contained agricultural buildings and is believed to have contained cottages. Remnants of previous buildings remain on site. The National Planning Policy Framework (the Framework) is clear that land which is or was last occupied by agricultural buildings or where the remains of a permanent structure have blended into the landscape are excluded from the definition of previously developed land. The remains of any previous structures that once stood on the site have now blended into the landscape. Accordingly, the appeal site does not fall within the definition of previously developed land.
8. The appeal site is located approximately 1 mile from the village of Doddington, which contains a limited range of facilities including a public house, butchers and a service station. Sittingbourne town centre is approximately 3 miles away and contains a wider range of facilities including a train station, doctor's surgery, schools and shops. The site is accessed via a narrow rural lane. While it would be possible to walk or cycle to Doddington, the distance and lack of footway and streetlighting is likely to deter future occupants from doing so. Doddington also only has a limited range of facilities and services. The appeal site would be poorly related to existing services and facilities. Future residents would be heavily reliant on private motor vehicles to meet their day-to-day needs and this weighs heavily against the development.
9. Although the site lies adjacent to a small cluster of buildings, these buildings are remotely located within the open countryside and isolated from any settlement. Paragraph 80 of the Framework seeks to avoid the development of isolated homes in the countryside, unless it meets one or more of the specified circumstances. The appellant argues that circumstances c) and e) are applicable in this appeal. The proposal would not re-use a redundant or disused building and therefore circumstance c) is not applicable. As discussed further below, the proposed design would not be of exceptional quality or truly outstanding, neither would it significantly enhance its immediate setting or be sensitive to the defining characteristics of the area and therefore would not fall within circumstance e). Consequently, the proposal does not fall within any of the circumstances set out within paragraph 80 of the Framework.
10. The appellant argues that the proposal would be justified by Policy DM11 of the Local Plan. However, Policy DM11 is not applicable to this appeal as the proposal would not rebuild an existing dwelling.

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11. For the reasons given above, I conclude that the appeal site would not be a suitable location for the proposed development. The proposal would fail to comply with Policies ST1, ST3 and DM14 of the Local Plan, which among other things seek to deliver sustainable development; restrict development in the open countryside; and, require that development is well sited and appropriate to its location. The proposal would also be contrary to the Framework, which seeks to ensure that new residential development is accessible to existing services and facilities.

Character and appearance

12. The appeal site lies within the AONB. The Framework requires that great weight is given to conserving and enhancing the landscape and scenic beauty of AONBs. The area is characterised by sporadic development, set within an agricultural landscape. The appeal site lies adjacent to ecclesiastical buildings, a dwelling and an oast house, which is now in residential use. Trees and soft landscaping frame this small cluster of buildings. In contrast, the landscape surrounding these buildings is more open in character, consisting of agricultural fields. The topography of the area is generally flat. The church spire and kilns on the oast are prominent features above the tree line within the landscape.
13. The appeal site has a green and leafy character. While it may contain fallen trees and remnants of former buildings, these are largely hidden by the existing soft landscaping. Although the soft landscaping is somewhat overgrown, the green and open character of the appeal site makes a positive contribution to the character and appearance of the area and the AONB.
14. The proposed dwelling has been designed to appear like an agricultural barn, with a single-storey front elevation. It would incorporate materials such as dark timber cladding and clay tiles, which would respect the local vernacular. The proposed dwelling would be partially screened from the public realm by the existing and proposed soft landscaping. However, views of the proposed development would still be available from the lane, particularly via the new access and through and above the landscaping from the public bridleway. While barns are commonplace in the countryside and often accompany oasts, the provision of an attached double garage, hardstanding for parking, large extent of fenestration (particularly on the north-east elevation), the flat roof projection and the addition of domestic paraphernalia would all contribute to the proposal being read as a new dwelling, rather than an agricultural building.
15. The proposal would have an urbanising effect on the appeal site and the locality and would fail to respect the character of the former farmstead. It would transform the existing site from a green open space to one comprising residential built development. The proposed development would detract from the rural characteristics of the area and cause significant harm to the landscape and scenic beauty of the AONB.
16. While the environmental credentials of the proposal, including the provision of renewable energy technologies, locally sourced and environmentally friendly building materials, water efficiency measures, high thermal performance, biodiversity enhancement measures and desire to keep the landscaping as natural as possible are commended, the overall design of the scheme is not truly outstanding, neither would it reflect the highest standards in architecture or help to raise standards of design more generally in rural areas. The proposal would therefore be contrary to paragraph 80 of the Framework.

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17. For the reasons given above, I conclude that the proposed development would be harmful to the character and appearance of the area and the landscape and scenic beauty of the AONB. The proposal would conflict with Policies DM14 and DM24 of the Local Plan, which among other things require that development proposals conserve and enhance the natural and/or built environments. The proposal would also conflict with principles SD2, SD3 and SD9 of the Kent Downs AONB Management Plan 2021-2026, which require that the local character, qualities and distinctiveness of the AONB are conserved and enhanced and the historic and locally distinctive character of an area are maintained and strengthened.

Setting of listed buildings

18. The appeal site forms part of the setting of the Church of St Catherine and Church Oast, which are Grade II listed buildings. In accordance with the statutory duty imposed by section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving the setting of the listed buildings in the determination of this appeal. The church lies to the south-west of the appeal site. The significance of the church derives from its high quality example as a Victorian parish church and its architectural features, including its tower with angle buttresses and crocketed broach spire, which is a prominent feature in the rural landscape.
19. Church Oast lies to the east of the appeal site and has been converted into a dwelling. The significance of Church Oast derives from its square kilns with pyramidal roofs and wooden cowls with winders, which are highly visible in the landscape. The oast contributes towards the social and agricultural history of the locality. The oast also has group value with the Church of St Catherine, as acknowledged within its listing description.
20. The open and green nature of the appeal site contribute to the rural setting of both listed buildings. The appellant's Heritage Impact Assessment (HIA) acknowledges that the setting of the church makes a strong positive contribution to its significance. The HIA considers that the key aspects of the church's setting include its group value with Church Oast and its rural surroundings. While the site is not currently in agricultural use, it provides an open and green space between the church and the oast and contributes to the rural surroundings of both buildings.
21. The HIA argues that the development would result in a positive change to Church Oast, as the site previously contained an agricultural building and the provision of a barn style development would enhance the context of the oast and better reveal the oast's significance, which is now isolated from other agricultural buildings. While the proposed design seeks to resemble an agricultural barn, the domestic influences that I have outlined above, would mean that it would be read as a new dwelling. The proposal would not better reveal the agricultural significance of the oast. The provision of a contemporary dwelling in the style of an agricultural building would result in harm to the significance of the oast.
22. I acknowledge that the proposal would not interrupt the skyline and enable the spire and kilns/cowls to be appreciated. The proposed dwelling would also be lower in height than the adjacent listed buildings, set back in its plot and partially screened by existing and proposed planting. However, it would be visible from the public realm and given its siting between the church and oast

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would interrupt the relationship and group value of these heritage assets. Accordingly, the proposal would result in harm to the significance of the Church of St Catherine and Church Oast. As the harm would be localised, I find the harm to be less than substantial to both heritage assets, but nevertheless of considerable importance. In accordance with paragraph 202 of the Framework, that harm should be weighed against any public benefits of the proposal.

23. The provision of a new dwelling would align with an objective of the Framework, which seeks to significantly boost housing supply. The Framework also acknowledges the importance of small sites in meeting the housing requirement of an area. The proposal seeks to provide a self-build, life-time home, which would be accessible for a disabled person(s). The proposed dwelling would make a small contribution towards the Council's housing land supply and add to the diversity of the Council's housing stock. However, given the proposal only seeks to provide one dwelling, I give the social benefits of the scheme limited weight.
24. There would be short-term economic investment from the construction of the development and future residents would help to support local services and facilities. However, given the short term nature of the construction works and the limited local facilities available, future residents are likely to travel further afield to meet their day-to-day needs and I therefore give the economic benefits of the scheme very limited weight. The proposed environmental benefits include remediation of the site, provision of renewable energy technologies and energy efficiency measures, use of locally sourced and environmentally friendly building materials, water efficiency measures, biodiversity enhancement measures and new planting are supported but are all fairly commonplace measures. Given the landscape harm that I have identified, I give the environmental benefits of the scheme limited weight.
25. The appellant ascertains that the proposal would provide affordable housing. The proposal would provide a good sized, 3 bedroom family house, with home office and gym/wellness room. The proposal would provide market, rather than affordable housing and would not be affordable to people on lower incomes. The provision of an electric vehicle charging point is a requirement under separate legislation and is not a planning benefit.
26. Overall, the proposed benefits carry limited weight in favour of the development. As a result, there are no public benefits of sufficient weight to outweigh the less than substantial harm that would arise from the development.
27. For the reasons given above, I conclude that the proposal would harm the significance of designated heritage assets and would conflict with Policies ST1 and DM14 of the Local Plan. These policies among other things require that development conserves and enhances the historic environment, taking into account the desirability of sustaining and enhancing the significance of heritage assets.

Parking

28. The proposal seeks to provide 2 car parking spaces on the driveway, plus a double garage. The Council's Parking Standards Supplementary Planning Document (SPD) May 2020 recommends that in rural areas a 3 bedroom dwelling provides 4 or more car parking spaces per dwelling. The SPD

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recommends that a flexible approach is taken in respect to providing parking for new development and that these standards are only advisory in nature. While the length of the garage may not accord with the SPD, the size of the garage would be sufficient to accommodate 2 standard sized cars. There would be space on the driveway to accommodate additional visitor or delivery parking, if required. Consequently, the proposal would provide sufficient parking, which would be conveniently located for future occupants, without requiring overflow parking on the lane. As a result, there would be no obstructions on the public highway and no harm to highway safety would arise.

29. I conclude that the proposal would provide sufficient parking for the proposed development and would comply with Policies DM7 and DM14 of the Local Plan. These policies among other things require that developments provide appropriate provision for vehicle parking. The proposal would also comply with the Council's Parking Standards SPD, which seeks to provide appropriate parking on site, while ensuring the safe operation of the public highway.

Planning Balance

30. The Council is unable to demonstrate a 5 year supply of deliverable housing sites. In such circumstances, paragraph 11 d) of the Framework advises that the most important policies for determining the appeal are deemed to be out-of-date and planning permission should be granted, unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
31. As defined in footnote 7 of paragraph 11 d (i) of the Framework, the site is located within a protected area and would affect assets of particular importance. The proposal would neither conserve nor enhance the landscape and scenic beauty of the AONB and would fail to preserve the setting and therefore the significance of designated heritage assets. Consequently, the application of policies in the Framework that protect AONBs and designated heritage assets provides a clear reason for refusing the proposed development. As a result, the presumption in favour of sustainable development does not apply in this case.

Other Matters

32. The Council advise that the site lies within the 6km zone of influence for The Swale Special Protection Area (SPA), which is a European protected site. However, there is no need for me to consider the implications upon the SPA, because the scheme is unacceptable for other reasons.
33. While I note that the Environmental Impact Assessment screening direction undertaken by the Secretary of State concludes that the proposal would not have a significant environmental impact, this direction is based on a different legislative framework and thresholds. The direction does not prejudice the determination of this appeal.
34. The appellant has drawn my attention to a scheme where prior approval was granted for 5 dwellings on a former farmstead in the locality. Limited details have been provided on the circumstances of this case; however, the prior approval would have related to the change of use of an existing building(s) and not for a new dwelling and is therefore not comparable.

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35. While the Parish Council have not objected to the proposal, this does not affect my findings set out above.

Conclusion

36. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework that would outweigh this conflict. Therefore, I conclude that the appeal should be dismissed.

A James

INSPECTOR

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Appeal Decision

Site visit made on 11 September 2023

by **E Catcheside BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 October 2023

Appeal Ref: APP/V2255/W/23/3317192

4 The Retreat, The Street, Doddington, Kent ME9 0DB

- 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 Daniel Dawson against the decision of Swale Borough Council.
 - The application Ref 22/503568/FULL, dated 20 July 2022, was refused by notice dated 27 September 2022.
 - The development proposed is the change of use from agricultural land to domestic garden.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the surrounding area, with particular regard to the Kent Downs Area of Outstanding Natural Beauty (AONB).

Reasons

3. The appeal site lies to the rear of 3 and 4 The Retreat, which form part of a distinctive terraced row of traditional dwellings on the edge of Doddington village. The dwellings are set back some distance from The Street with deep front gardens and further amenity space to the rear. The rear boundaries of dwellings on The Street and Dully Hill provide a clear and distinct edge that demarcates the settlement from open countryside. The topography of the surrounding land allows impressive views across the countryside to be gained from the public realm. The open views across rolling farmland contribute to the special quality and distinctive character of the Kent Downs AONB.
4. The development has extended the rear garden of No 4 into open countryside by fencing off a plot of adjacent land. On my site visit, I saw that the site was largely laid to grass and there was evidence of it being used for vegetable and plant growth. The site was also being used for other household activities and contained children's play equipment and garden furniture. Although the fence and the domestic items within the garden are low key, they support the use of the site for recreation and socialising. Despite the close proximity of the site to No 4's garden and its relatively modest size in comparison to the wider landscape, the development encroaches domestic activity into the open countryside and changes its character. The extended garden is prominent in views from Faversham Road and the public footpath that crosses land to the rear of the site, as well as from nearby dwellings, and disrupts the panorama of rolling farmland that is characteristic of the AONB.

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5. In support of the appeal, the appellant has sought to clarify that the proposed use of the site is as an allotment-style garden, mainly but not solely for growing fruit and vegetables. I have been provided with images and maps which show historic uses of the site. I do not have substantive information about the planning status of those uses and, in any event, am not persuaded they are directly comparable to the appeal scheme, which is for a residential use. I have had regard to the appellant's suggestion that the use of and built development on the site could be restricted through condition. However, it would not be reasonable to prevent it from being used for typical garden activities and would not overcome the harm I have identified.
6. I conclude that the proposed development would cause harm to the character and appearance of the surrounding area and would fail to conserve and enhance the special qualities and distinctive character of the Kent Downs AONB. This would be contrary to policy DM24 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (SBLP), which seeks to protect the AONB from harmful development. It would also harm the landscape through the encroachment of domestic activity into open countryside. The effect would be significant at the local level given the prominence of the proposed development in views from public vantage points. This would be contrary to policy DM13 of the SBLP, which resists garden extensions where there would be significant harm to landscape.

Other Matters

7. Plots to the rear of a number of dwellings along The Street have been fenced off in a similar manner to the appeal scheme. I have limited definitive information before about the use and status of those sites. However, this decision relates solely to the site address listed above and as shown on the submitted drawings, and for the development as described above.
8. The appeal development has some support from neighbours, and I note that the appellant considers the existing amenity space to be unsafe for children to play. Despite the larger of the two gardens being at the front of the dwelling, there is limited evidence to indicate the amenity space is insufficient or unsafe. I have also had regard to the potential biodiversity benefits of crop growth. However, this benefit does not outweigh the harm I have identified.

Conclusion

9. The proposed development would be contrary to the development plan when read as a whole and there are no material considerations that outweigh this harm. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

E. Catcheside

INSPECTOR