

# Agenda

## Extraordinary Planning Committee Meeting

Date: Monday, 5 June 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

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**Pages**

### Information about this meeting

\*Members of the press and public can listen to this meeting live. Details of how to join the meeting will be added to the website by 2 June 2023.

### Recording and Privacy Notice

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## 1. Emergency Evacuation Procedure

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

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

## 2. Apologies for Absence

## 3. Declarations of Interest

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

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

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

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

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

## 4. Deferred Items

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To consider the following applications:

22/502834/EIOUT Land West of Church Road, Bapchild/Tonge

22/503418/OUT Land at Tonge Road, Sittingbourne

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

Requests to speak on these items must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call us on 01795 417328) by noon on Friday 2 June 2023.

5. Report of the Head of Planning Services

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250

To consider the attached report (Part 2).

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call 01795 417328) by noon on Friday 2 June 2023.

**Issued on Thursday, 25 May 2023**

The reports included in Part I of this agenda can be made available in alternative formats. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact **DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of the Planning Committee, please visit [www.swale.gov.uk](http://www.swale.gov.uk)

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

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## SWALE BOROUGH COUNCIL

### PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

**5 JUNE 2023**

#### Standard Index to Contents

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

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

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

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

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

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

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

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ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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## INDEX OF ITEMS FOR PLANNING COMMITTEE – 5 JUNE 2023

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

### DEFERRED ITEM

Def Item 1	22/502834/EIOUT	BAPCHILD / TONGE	Land West of Church Road
Def Item 2	22/503418/OUT	SITTINGBOURNE	Land at Tonge Road

### PART 2

2.1	22/505990/FULL	GRAVENEY	Land between the A299 Staple Street Road and Whitstable Road
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**PLANNING COMMITTEE – 5 JUNE 2023****DEFERRED ITEM**

Report of the Head of Planning

**DEFERRED ITEMS**

Reports shown in previous Minutes as being deferred from that Meeting

<b>DEF ITEM 1 REFERENCE NO – 22/502834/EIOT</b>		
<b>APPLICATION PROPOSAL</b> Outline application for up to 380 residential dwellings (including affordable homes) and 450 sqm of Use Class E/F floorspace, together with associated open space, play space, and landscaping (All matters reserved except for access).		
<b>ADDRESS</b> Land West Of Church Road Bapchild Tonge Kent		
<b>RECOMMENDATION</b> Grant subject to conditions and Section 106 Agreement with delegated authority to the Interim Head of Planning to amend the wording of the s106 agreement and conditions as may reasonably be required.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The resolution from the Planning Committee on 25 <sup>th</sup> January 2023, required officers to take legal advice on the proposed reasons for refusal. While this advice has now been received, the applicant has submitted an appeal against non-determination and as such members are required to consider the decision that they would have made should the Council have been the determining authority.		
<b>WARD</b> Teynham and Lynsted	<b>PARISH/TOWN COUNCIL</b> Tonge	<b>APPLICANT</b> Trenport East Hall Park Ltd <b>AGENT</b> Knight Frank
<b>DECISION DUE DATE</b> 22/12/22	<b>PUBLICITY EXPIRY DATE</b> 30/07/22	<b>CASE OFFICER</b> William Allwood

**Planning History**

The site was allocated for housing development as part of the Bearing Fruits Local Plan 2017 by virtue of policy MU2.

In terms of the application history of relevance is the EIA scoping opinion, details of which are set out below: -

22/500654/EIASCO

EIA Scoping Opinion - Proposed residential development comprising up to 330 dwellings, with all matters reserved except for access.

EIA Scoping Opinion Decision Date: 15.03.2022

A full list of the site history can be found with the previous officer committee report from 25<sup>th</sup> January 2023, which can be found at Appendix 1 of this report.

## **1.0 BACKGROUND**

- 1.1 The above application was reported to the Planning Committee on 25<sup>th</sup> January 2023, where the Planning Committee resolved to refuse planning permission on the basis that the application proposal was contrary to policies MU2 and AS1 in the Local Plan 2017.
- 1.2 Policy MU2 relates to the allocation of the site at north-east Sittingbourne for approx. 106 dwellings and open spaces (including on-site and contributions towards the improvement of existing sports and play facilities), ecological and flood risk mitigation, renewable energy measures and other infrastructure needs arising from the development. It requires the developer to mitigate any transport impact upon the wider highway network and encourage a modal shift to more sustainable transport options through securing pedestrian and cycle links to existing and proposed residential and employment areas as well as the provision of adequate bus access to the site. Importantly, the policy requires that the development does not prejudice the delivery of the Sittingbourne Relief Road. This requirement is echoed within policy AS1 of the Local Plan 2017.
- 1.3 While the application provides a significant uplift in dwelling numbers, this will only happen in the event that the Sittingbourne Relief Road is no longer required as part of the Local Plan Review. This has been carefully considered by officers through the phasing of development whereby up to 212 dwellings can come forward as part of phases 1 & 2 with the remaining 168 only coming forward once the need for the Sittingbourne Relief Road has been determined through the Local Plan Review. As set out previously this requirement can be secured using appropriate safeguarding conditions and future reserved matters applications, and the applicant is agreeable to this approach.
- 1.4 Following officer concerns, highlighted at the Planning Committee regarding the robustness of the proposed reasons for refusal, the planning committee further resolved to defer the item so that officers could seek legal advice on the proposed reasons for refusal. This was on the basis that Phase 2 as identified on the indicative phasing plan would encroach into the safeguarded land for the relief road. It was considered that until such time as the relief road was delivered the residents would need to rely on the existing highway network which would place significant pressure on its resilience. In the event a relief road was not pursued by the Council, a higher number of dwellings are proposed to be constructed. In light of this it was considered by members that the overall scheme would be of poor design, contrary to local and national policies as it would, in effect, comprise a large 'cul-de-sac' style development and this poor design would not be outweighed by the benefits the scheme would bring.
- 1.5 Since the Planning Committee meeting of the 25<sup>th</sup> January 2023, the applicant has now appealed to the Planning Inspectorate on the grounds of non-determination. The appeal has now been accepted by PINs who have confirmed that the appeal will be heard as a public inquiry lasting 8 days starting on 12<sup>th</sup> September 2023

## **2.0 DISCUSSION**

- 2.1 There is a strong policy basis to support this application given the allocation within the extant Local Plan 2017. While it is acknowledged that the number of dwellings overall exceeds the number in the Local Plan, this is indicative and subject to further consideration at planning application stage to take into account specific matters such as tenure and unit size. The scheme can be carefully phased to ensure that the land needed for the delivery of the Sittingbourne Relief Road is not prejudiced. It should also be noted that the Local Plan 2017 identifies an area of land safeguarded for the northern relief road (policy AS 1) with housing located in the protected area as identified in the concept masterplan contained at policy MU 2. Taking this into account the Local Plan 2017 does not preclude housing development coming forward within the safeguarded area subject to the route of the relief road not being prejudiced. This has been successfully demonstrated by virtue of only 168 dwellings being provided should the land be required for the relief road and on this basis no objection has been raised from any of the relevant statutory consultees.
- 2.2 The scheme forms a natural extension to the Eurolink industrial area and East Hall residential area. The Local Plan required development in this area to be landscape led to deliver a softer and more cohesive edge to the settlement of Sittingbourne, while also protecting the delivery of the relief road at some point in the future. This has been carefully considered within the indicative layout, which is fully assessed within the officer's report from 25<sup>th</sup> January 2023 at Appendix 1. However, the final layout would be subject to a Reserved Matters application at a later stage. The Local Plan clearly sets out that access to the site is to be taken from Swale Way, this has been included within the site layout as the main point of access and has the support of all relevant statutory consultees.
- 2.3 In terms of the proposed reasons for refusal, the legal opinion reaffirms the recommendation made by officers at the 25<sup>th</sup> January committee. Copies of the legal opinion will be available to the committee on the evening should they wish to review the advice that has been given.

## **3.0 CONCLUSION**

- 3.1 For the reasons set out, the conclusions of the officer report remain valid, and it is recommended that members resolve that they would have granted planning permission subject to safeguarding conditions and the competition of a Section 106 agreement.



**Item 2.2**

**Land West of Church Road Bapchild Tonge Kent**



<b>2.2 REFERENCE NO - 22/502834/EIOUT</b>		
<b>APPLICATION PROPOSAL</b> Outline application for up to 380 residential dwellings (including affordable homes) and 450 sqm of Use Class E/F floorspace, together with associated open space, play space, and landscaping (All matters reserved except for access). The application is supported by an Environmental Impact Assessment, Parameter Plans and Design Guidance and Code.		
<b>ADDRESS</b> Land West Of Church Road Bapchild Tonge Kent		
<b>RECOMMENDATION</b> Approval subject to planning obligation (see proposed heads of terms section)		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The scheme is part of the allocated MU2 local plan site and complies with this local plan policy and other relevant policies. As an outline scheme only, the quantum of development and means of access are sought at this stage, all other matters are reserved.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Interlinked with other agenda items. Cumulative impacts of three close by schemes sharing infrastructure and mitigation schemes.		
<b>WARD</b> Teynham Lynsted	<b>And</b>	<b>PARISH/TOWN</b> Tonge  <b>COUNCIL</b>  <b>APPLICANT</b> Trenport East Hall Park Ltd <b>AGENT</b> Knight Frank
<b>Case Officer</b>	Andrew Lainton	
<b>DECISION DUE DATE</b> 25/01/23	<b>PUBLICITY EXPIRY DATE</b> 17/10/22	

**1. PLANNING HISTORY**

22/500654/EIASCO

EIA Scoping Opinion - Proposed residential development comprising up to 330 dwellings, with all matters reserved except for access.

EIA Scoping Opinion Decision Date: 15.03.2022

1.1 The site is not subject to any recent planning history, however there are several planning applications of relevance, near the site. The main applications to note are:

- East Hall Farm (LPA Ref. SW/02/1180) - Land to the west and north-west of the site has previously come forward for mixed-use development. This area – known as the East Hall Farm Development Area – was granted outline planning permission in 2004 for 25-hectares of residential development; 11-hectares of employment development; and supporting development in relation to community infrastructure, open space, and access. The site was subsequently sub-divided into separate parcels and brought forward (via reserved matters) for development by various housebuilders / developers. It should be noted that the applicant on the outline permission was Trenport.
- Eurolink Industrial Estate – To the north-west of the site is the Eurolink-V which has been partly implemented through the outline permission mentioned above. The industrial Estate came forward in four plots, and four separate outline planning applications. Plot 1, 2 and 3 were granted in November 2016 with Plot 4 granted in February 2022. Subsequent Reserved Matters applications have been submitted and approved since these dates.
- Oast Driving Range, Sittingbourne Golf Centre (LPA Ref. 18/0502181/FULL) – Located to the north of the site is Sittingbourne Golf Centre which received planning consent in January 2019 for various re-landscaping and facilities improvements. This is currently being built out. A Non-Material Amendment application ('NMA') has also been submitted for Oast Driving Range (LPA Ref: 21/505694/NMAMD) proposing a variety of amendments to the OPA. This is pending consideration.
- Lomas Road (LPA Ref. 20/506066/OUT) – An application was submitted on land to the north of Lomas Road in January 2021, for the erection of 14 dwellings, associated car parking and landscaping. The proposals subject to this planning application provide access to this site allowing connectivity to Swale Way. This application is still to be determined.
- Highsted Park (LPA Ref. 21/500836 / 21/503914)– Two separate applications have been submitted by Quinn Estates on land to the south and east of the site. These applications form the proposals for Highsted Park and consist of:
  - Land West of Teynham – also known as Northern Site: Highsted Park - for 1,250 units, 1 ha of commercial floorspace and a variety of infrastructure and supporting uses.
  - Land North and East Sittingbourne – also known as Southern Site: Highsted Park – for 8,000 units, and commercial floorspace, infrastructure and supporting uses.

- Land West of Teynham / Northern Site of Highsted Park application also included a “Northern Relief Road” which was proposed from the Eurolink Roundabout and through Trenport’s land ownership.

## **2. EXECUTIVE SUMMARY**

2.1 The site lies to the east of Murston/Stones Farm and the west of St Gile’s Church Tonge. It is partially located within the Sittingbourne and Milton Built-up Area Boundary (BUAB). The is allocated in the Local Plan (site MU2) for an urban extension, landscape enhancements, housing and safeguarding area for the Sittingbourne Northern relief Road. There is also an employment element to the allocation, which is now compete.

2.2 While the level of residential accommodation proposed exceeds the number of residential units the site was allocated for, it is considered that the proposal can be accommodated within the site. This is without causing harm to the character and appearance of the area or harm to the setting of the affected setting of designated heritage assets. This is because the scheme is of good quality with carefully considered parameter and design codes to ensure the delivery of a high-quality development.

2.3 The scheme would include a safeguarded area of land for the completion of the Sittingbourne Northern relief road, which is an importance piece of infrastructure to be brought forward as part of the Local Plan Policy AS 1. The safeguarded land falls within Phases 3 and 4 of the proposals and it has been demonstrated that a road of relief road can be accommodated with an appropriate landscape buffer to the housing.

2.4 The phasing of the site means that Phases 1 and 2, this will include up to 212 dwellings and commercial floorspace. Phases 3 and 4 will only come forward should the requirement to safeguard land not be pursued as part of the Local Plan Review.

2.5 A major benefit of the scheme would be in providing new community facilities for the area and infrastructure for the safeguarding and extension of the 349 bus route, which was recently handed over from Arriva to Chalkwell. This, and the resolution of the Bus Gate issue preventing bus services at Great East Hall, is considered an essential component in improving public transport links between the site and the surrounding areas at the East of Sittingbourne. The ability to safeguard the service serving the south of the railway is also considered an important factor in favour of the scheme.

2.6 The scheme includes a comprehensive planning obligation package including quiet lands schemes, GP and school places funding and funding towards the Parish Church, as well as open space and nature conservation contributions.



2.7 Overall the application is considered to accord with the Local Plan 2017 and the NPPF subject to the imposition of suitable safeguarding conditions and the completion of a Section 106 agreement.

### **3. DESCRIPTION OF SITE**

3.1 The site is approx. 17.25ha and is located immediately to the northeast of Sittingbourne with Church Road being located to the west. The site adjoins the existing development at East Hall Farm. It is located approximately 1.7km east of Sittingbourne town centre and 2.4km east of Sittingbourne station.

3.2 The site is irregularly shaped consisting of undeveloped land and contains two rectangular fields, which are separated by a hedgerow and a small area of grassland in the southeast of the site. The western part of the site adjoins the existing housing at East Hall Farm, which contains rough grassland. The site is bounded by Sittingbourne Golf Centre to the north and industrial/ open storage uses to the northwest at the Eurolink. Church Road is located to the east and Lomas Road to the south

3.3 The site does not currently have vehicular access other than a small, gated trackway, which is also a public right of way onto Lomas Road. There is also a Public Right of Way ('PROW') running alongside the site connecting to employment opportunities at Eurolink/Swale Way, to the northwest at Eurolink V Industrial Estate and with existing residents at East Hall Farm.

3.4 In terms of its topography, the site is broadly level, with a slight fall from its highest point in the southwest towards its lowest elevation along the northern boundary. In terms of surrounding topography, its surroundings are low-lying and flat with some gentle undulations. To the north of the site, the landform rises to a high point around Telegraph Hill, before descending towards the Swale (watercourse).

### **4. PROPOSAL**

#### *Proposed Development*

4.1 This planning application is submitted in outline form with access to be determined a part of this application. All other matters including layout, appearance, scale, and landscaping will be considered under a reserved matters proposal.

4.2 The proposed description of development is as follows:

*Outline planning application for up to 380 homes (including affordable homes) and 450 sqm of Use Class E/F floorspace, together with associated open space, play space, and landscaping. All matters reserved except for access.*

4.3 Note the number of units depends if safeguarding for the relief road is continued and what route is taken. With the road the maximum capacity falls by up to 168 units depending on what route option was chosen. The capacity of the site would be controlled, per phase, by planning condition.

#### *Submitted Plans*

4.4 The scheme would include 5 parameter plans controlling matters such as phasing, land use, heights, access density and open space. The parameter plans provide the overall design principles for the site and set the scale and scope of development considered in the Environmental Assessment. Future Reserved Matters Applications ('RMAs') will need to be generally in accordance with them.

4.5 An illustrative masterplan is submitted to demonstrate how this quantum of development and principles set out in the DAS are achievable and deliverable, however this is not a plan submitted for approval with future detail being provided in subsequent RMAs.

4.6 The Study firstly provides an overview of the area (focusing on east of Sittingbourne) examining the urban form and landscape, and then draws on specific examples in close proximity to the site; East Hall Farm and Stones Farm, analysing the urban fabric, pattern of streets, urban blocks and plots. The conclusions of the Study have influenced the design process from early stages, and this is reflected within the proposals submitted for approval, as set out below.

4.7 A Design Code Document and the resulting codes used to provide further context on the proposals.

#### *Development Vision*

4.8 The applicant's development vision for the site is to create a high-quality residential development, which forms an attractive and integrated extension to the existing community of East Hall Farm and the wider Sittingbourne.

#### *Components of the Scheme*

4.9 The key features of the proposal include:

- A residential-led development completing the local plan allocation for the East Sittingbourne urban extension.
- Up to 380 new homes, including 15% affordable housing and First Homes (in accordance with Planning Policy);
- A range of house types and sizes from 1-4 bedroom houses and apartments;
- Provision of 450 sqm of non-residential floorspace (for Use Class E(commercial)/F(educational));
- Provision of new publicly accessible open spaces and areas for informal play, recreation as well as new equipped play areas;
- A network of on-site footpaths and cycle routes which will connect the site to the local area e;
- sustainable drainage systems;
- Land to be safeguarded for the Sittingbourne Northern Relief Road;

#### *Indicative Residential Mix*

4.10 The proposals seek the erection of up to 380 residential units, of which 15% are proposed as affordable homes (10% is required by Planning Policy) of which 25% (9) would be first homes. The indicative mix is as follows:

Size of Dwelling	1-bedroom apartments	2-bedroom apartments	2-bedroom house	3-bedroom house	4-bedroom house	Total
Phase 1	16	25		50	43	134
Phase 2	14	21	6	20	17	78
Phase 3	24	29	7	25	18	103
Phase 4			16	48	1	65

Total	54	75	29	143	79	380
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- 4.11 The indicative mix is split between four phases of development, as shown above and on the submitted Phasing Plan parameter plan (Drawing Reference: 21.042.0115.P2). Phases 1 and 2 are proposed to be delivered first, with Phases 3 and 4 safeguarded for the Sittingbourne Relief Road in accordance with Policy AS1 of the Bearing Fruits Local Plan. If the relief road goes ahead then the capacity of the site would be reduced depending on which routing option is chosen, at its lowest to 212 dwellings. This is reflected in a proposed condition.
- 4.12 The indicative residential mix provides a range of house / apartment types of varying sizes which will cater for a broad range of different needs. The mix provides for a range of family homes to suit all sizes of household whilst also providing some smaller houses and apartments that could be attractive to young professionals and people looking to downsize.
- 4.13 Given the context of Sittingbourne, the site could attract a variety of occupants, and this is evidenced within the take up of dwellings at East Hall Farm, adjacent to the site, which has a variety of occupants from families to young people and the older population.
- 4.14 Most of the properties are envisaged to come forward as houses (59% in the indicative mix), and so a conventional front and rear garden space is proposed. For those living in apartments (41% of the proposed units in the indicative mix), these located amongst communal green and open spaces, notably the apartment blocks as you enter the site which are located around the periphery of a community green.

#### *Affordable Housing*

- 4.15 The proposals are to provide 15% affordable housing. This is above the minimum policy compliant affordable housing which is currently 10% of all units on site for developments in Sittingbourne, in accordance with Bearing Fruits Local Plan. Based on the 15% offer of the currently proposed 380 residential units on site, 57 of these will be affordable units comprising a range of sizes as split between tenures as per below.
- 4.16 In line with National Planning Policy Guidance (NPPG, 2021) a minimum of 25% of all the affordable homes would be provided as First Homes (i.e. 9 of the 38 units overall). The tenure split of the affordable housing is proposed to be 90% affordable/social rent and 10% as intermediate/shared ownership homes.

- 4.17 The provision of affordable housing would be evenly split between all phases of development to ensure policy compliant provision is achieved throughout development.
- 4.18 Detail on the affordable housing mix will be provided as part of future Reserved Matters application (RMAs) with each RMA proposing to provide 15% affordable housing.

#### *Layout and Character Areas*

- 4.19 The layout and design of the site has been broken down into four character areas. Whilst outline permission is sought for this application, the character areas intend to set a baseline for future RMA's and the key design principles that should be followed.
- 4.20 These character areas are also referenced within the Design Guidance and Code Document produced by LDA Design.
- 4.21 The proposed character areas are as follows:
- **East Hall Grove would be** located on the western edge of the site, adjoining the existing development at East Hall Farm. This character area is largely influenced and defined by the design of East Hall Farm, proposing similar design principles. For example, the buildings are proposed to be up to 2.5 storeys, generally semi-detached or terraced, with densities ranging up to 50 dwellings per hectare ("dph").
  - **St Giles Avenue –** St Giles Avenue character area would be located on the main entrance / focal point as you enter the site and continues along the green corridor heading east towards St Giles Church Tonge on Church Road. Buildings are typically 4 storeys as you enter the site, stepping down in scale towards St Giles Church, with development in closest proximity of lower density and limited to 2-storeys only, with houses fronting the main spine and green corridor.
  - **Woodland Edge –** Woodland Edge character area would be located on the edges of the development parcels in the north west and south east of the site. This character area provides an opportunity for transition from the higher densities of East Hall Grove and St Giles Avenue towards the lower densities of Orchard View and any new housing shall respond sensitively to its woodland setting. Buildings are proposed to be up to 2.5 storeys, with densities up to 35 dph.
  - **Orchard View –** Orchard View character area would include the northern parcel of the site, and the small parcel in the south western corner of the site. This character area principally includes homes that front onto open space and that

are set within slightly larger pots with low-key boundaries to ensure seamless transition between private and public spaces. Densities and building heights are the lowest in these areas.

### *Heights and Density*

- 4.22 As outlined within the Building Heights Parameter Plan, and within the Densities Parameter Plan submitted for approval, densities range from 35 – 50 dph across the site and building heights across the site will be relatively consistent in their massing ranging from 2-2.5 storeys with the apartment blocks around the main access and arrival space / community green to the western edge of the site to be up to 4-storeys, in keeping with the more formal setting of the entrance area.
- 4.23 The density of development varies in an appropriate manner across the site. Higher densities of up to 50 dph are proposed on land adjoining the existing East Hall Farm to the west, and at the centre and entrance of the site which is reflective of the existing densities to the east of Sittingbourne including at East Hall Farm and Stones Farm. The density decreases heading east and north with lower density development of up to 35 dph proposed around the periphery of the site, to provide a transition towards the countryside and to protect and enhance nearby heritage assets.
- 4.24 The density ensures the most efficient use of land in light of the Council's priority of minimising unnecessary greenfield site releases.

### *Appearance*

- 4.25 The character areas provide an indicative guide on proposed materials for the site, although this is a reserved matter. The character areas demonstrate a majority of the site would be predominately brick and other traditional materials, interspersed with glazing and cladding, to reflect the local character and vernacular as required by the included Design Guidance.

### *Landscaping and Open Space*

- 4.26 As outlined on the Open Space Parameter Plan, submitted for approval, the proposals provide 8.4 hectares of open space, broken down as follows:

<b>Open Space Provision</b>	<b>Proposed Area (Ha)</b>
Parks and Gardens	2.46

Provision for Children and Young People	(included within Parks and Gardens above)
Natural and Semi-Natural Greenspace	5.83
Allotments	0.18
Total:	8.47

- 4.27 Provision for playing pitch sports facilities would be secured via a financial contribution, in accordance with Policy MU2 of the Bearing Fruits Local Plan and a contribution has been agreed with the Council's open space officer.

#### *East Hall Ecology Corridor*

- 4.28 An ecology corridor is proposed along the proposed access road from the Swale Way roundabout. This would comprise a mosaic of new tree, scrub, and grassland, in order to enhance the existing biodiversity and provide some screening towards the proposed development. Opportunities exist to replace non-native species and implement a proactive long-term management plan.
- 4.29 Existing vegetation along the boundaries of the site, would be retained (in so far as possible) to retain current habitat connectivity and reduce the visibility of the proposed development. A pedestrian and cycle route are proposed to be integrated along this corridor, enhancing access to the nearby Village Hall and beyond into Sittingbourne. The existing public right of way through the Site would be retained as enhanced as a landscape feature.

#### *East Hall Community Green*

- 4.30 A central space within the Proposed Development is proposed as a focal point and destination for the community and could be used as a space for events. This would comprise tree and grassland planting, alongside a central new play area. The play area would be subject to detailed design, but would most likely comprise more naturalistic, timber play equipment.

#### *St Giles Green Avenue*

- 4.31 An informal linear amenity space is proposed that provides a transition from the Community Green to the wooded boundary of the site (to the east).

*West Tonge Common*

- 4.32 A new area of public open space is proposed to the north of site, which would provide a naturalistic transition between the Proposed Development and the wider landscape. This would provide space for informal recreation and habitat creation. Community orchards could be incorporated to this area, providing a degree of screening, and reflecting the local 'Fruit Belt' landscape character. The eastern boundary of this proposed area would be enhanced with new planting. The space would also include a play space set amongst the orchard, along with the incorporation of water attenuation features.

*East Hall Allotments and Community Orchards*

- 4.33 The proposals also provide allotments dispersed across the site and provide orchards at the north and south- western parcels of the site. These would be beneficial to the well-being and health of new residents, along with providing local food production. Orchards also reflect the history of the wider area - which is famous for its fruit - reinstating features of the wider landscape that may have been previously lost to arable crops.

*Church Road Woodland Edge*

- 4.34 The existing woodland around the periphery of the site, including areas of grassland, woodland edge planting and existing mature trees and scrub, is to be retained and enhanced. New planting is proposed along the south and south-eastern boundaries of the site, around the junction of Church Road / Lomas Road which provides a degree of screening (including from nearby Bunces Farm) and improves habitat connectivity / bat commuting routes.

*Biodiversity*

- 4.35 The proposals include a range of biodiversity enhancements, which have carefully considered as part of the overall landscape strategy for the site. This includes:
- Retention of woodland, scrub-belts and hedgerows as far as possible;
  - Creation of new-locally appropriate habitats, including ponds and representations of the priority types traditional orchard and reedbed;
  - Creation of semi-natural public open space to promote biodiversity;



- Production of an Ecological Mitigation Strategy which contains protected species mitigation strategies and a strategy for achieving BNG; and
- Creation of a variety of public footpaths around the site.

4.36 Whilst the application is in outline only and therefore the detail of planting specifications etc. have not yet been determined, assessments made using Natural England's Biodiversity Metric calculation tool version 3.1 demonstrate that the proposals for the site would avoid a net loss of biodiversity, and that a net gain of over 10% can readily be achieved for both area-based habitats and also for hedgerows.

4.37 This will be delivered primarily via on-site habitat creation, and by sympathetic management of habitats to enhance condition. 15% Biodiversity Net Gain is proposed.

#### *Highway Proposals*

#### *Access*

4.38 A hierarchy of primary and secondary roads would be developed within the site, with the primary roads allowing access for all vehicles including buses, and secondary roads serving the smaller housing parcels. All adoptable roads within the site would be designed in accordance with KCC Highway design standards.

4.39 The development proposes a primary access route off the existing Great Easthall Way / Swale Way roundabout to 374 of the proposed (maximum) 380 dwellings, with secondary access provided via the existing development at East Hall Farm to the west. Access for 6 dwellings in the south western corner of the site would be taken from Church Road (amended from Lomas Road in the original scheme). The only access to

the main site from here would be a gate for emergency service vehicle access and connection to the internal pedestrian and cycle networks.

4.40 Between the Swale Way roundabout and first area of housing, the main access road will be constructed to a standard which reflects its potential to form an extension of the Sittingbourne Northern Relief Road at a future date. The existing Swale Way is constructed 7.3m wide single carriageway road and this standard will be continued along the first section of the main access, as agreed with KCC Highways.

4.41 The proposals can also accommodate a bus link through the primary access road. Discussions are ongoing with KCCH to extend service 349 into the site and would be included as part of the Section 106. Indicative bus stop locations are also shown on the Parameter Plans within a suitable walking distance from the furthest parts of the site.

- 4.42 The pedestrian / cycle link shown between the Church Road parcel and the wider site is intended to double up as an emergency access. At this stage it is considered that this could comprise the provision of a five bar gate with a Fire Brigade Padlock together with a pedestrian/ cycle only barrier to prevent use by motorcycles.
- 4.43 There is provision of circular walking routes connecting areas of development and green spaces, which also connect the site with the wider area including to Sittingbourne Golf Course and Town Centre.
- 4.44 Cycle routes are proposed throughout the site and provide connections to the National Cycle Network, which runs along the site's southern and eastern boundaries. It is also proposed that the existing Public Right of Way is upgraded to a bridleway to accommodate both cyclists and walkers.

#### *Parking*

- 4.45 The planning application is outline and details of parking provision would be determined at reserved matters stage. However, it is expected that the site will accord with the standards set out in the Swale Borough Council Parking Standards (May 2020).
- 4.46 The design of the car parking has also considered the KCC "Space to Park" guidance, and the DAS provides indicative designs for how car parking could work for each character area, through a combination of on-plot driveways, garages and carports, as well as some on-street car parking and by parking courts; namely for the apartment blocks located along "St Giles Avenue" character area.
- 4.47 As shown on all Parameter Plans, the site also proposes to provide additional car parking spaces for the Parish Council on the eastern edge of the site off Church lane slightly to the south of the Church.
- 4.48 Policy compliant cycle parking would also be provided.

#### *Electrical Vehicle Charging Points*

- 4.49 Although a matter for detailed design, the site is able to accommodate electric vehicle charging points both for flats and houses. The details of this provision will show on subsequent reserved matters applications and controlled by the building regulations (as this is a building regulations rather than a planning matter post June 2022).

*Energy*

- 4.50 As set out in the Energy Assessment (produced by Hodkinson), the proposed energy strategy follows a hierarchy of three stages: 1) Energy Efficiency, 2) Heat Networks and 3) Renewables. This hierarchy aims to ensure energy efficiency is maximised prior to improvement of energy supply.
- 4.51 Energy Efficiency measures are suggested including enhanced insulation of the building envelope to achieve U- values better than those required under Part L 2013, as well as improving air tightness, reducing effects from thermal bridging and specifying energy efficient lighting and appliances. Heat Networks are not recommended for the Proposed Development on the grounds of potential (based on the Local Plan Energy Opportunities Map) and the cost that would potentially be passed on to home-owners. Air-source heat pumps are recommended as the appropriate renewable's strategy for the provision of heating and cooling.
- 4.52 It is estimated that a reduction in Site-wide regulated carbon dioxide emissions of at least 50 % (based on 2013 building regulations baseline) will be achieved. Full details are provided in the Energy Assessment.

*Post Submission Amendments*

- 4.53 Following the validation of the planning application on 17th June 2022, further design workshops have been undertaken with the urban design officer and case officer, alongside input from statutory consultees that has led to a number of changes to the originally submitted Plans (submitted as stand-alone Plans and also contained within Section 5 of this DAS) on 28th September 2022.
- 4.54 These design changes are:
- The redline has been extended very slightly to ensure it goes up to the highways boundary and that there are no ransom strips around the site.
  - The access in the south-eastern corner of the site has been amended to access onto Church Road (instead of Lomas Road).
  - The secondary emergency / pedestrian access on the northern-eastern edge of the site, and onto Church Road has been removed.

- The indicative drainage ponds have been re-orientated in the south-eastern corner of the site, and an extra drainage pond has been included on the northwest of the site.
- The 6 dwellings in the south-eastern corner of the site are now included as part of Phase 3 of development and form part of the safeguarded area for the SNRR (previously formed Phase 1B, which is now not required).
- The Safeguarded Area for the SNRR has been extended to include these 6 dwellings.
- The Access and Parameter Plan (SNRR Option only) now includes the extended safeguarded area for the SNRR and safeguards land for potential infrastructure (including a potential roundabout).
- An indicative public transport corridor has now been added to demonstrate how public transport could connect to the site. Indicative locations for bus stops have also been added which are all within 400m / a walkable distance of all parts of the site.
- The primary access loop road has been straightened, and has reduced curvature.
- The Public Right Of Way (located within Phase 4) has been amended and shifted slightly further north to avoid overlapping of the proposed private driveways.
- Planting has been increased around the apartment blocks, and within the southeastern corner.

## **5. PRE-APPLICATION CONSULTATION**

5.1 A pre-application public engagement programme was conducted by Lexington, and full details are provided within the Statement of Community Involvement ('SCI') with a summary provided below.

5.2 A public exhibition was conducted on 25th April between 2.15pm and 6.15pm at Lakeview Village Hall on Great Easthall Way. 930 local homes and business addresses were invited to attend via postal letter, and 31 attended in total across the afternoon, including representatives from nearby Parish Councils.

5.3 Engagement with residents and councillors continued following the exhibition, with an invite to provide feedback via a consultation website at <https://landwestofchurchroad.co.uk/>.

5.4 Lexington sent out Facebook adverts to users in the Sittingbourne area. The social media adverts ran for a week between Thursday 28th April – Thursday 5th May and had an overall reach of 20,336 users and resulted in 1,987 link clicks.

5.5 At the conclusion of the feedback period, the Applicant had received 86 pieces of feedback:

5.6 Typical comments left by residents who support the proposals include the following:

- Ok for development in principle as long as access off the estate, including foot paths, is included.
- This area needs development and there is a need in the borough.
- New households bring numerous benefits and contribute to the local area.
- Providing additional roads out of the estate towards Church Road and Lomas Road is a plus.
- More parks and green areas would be very beneficial

5.7 The most cited reasons for opposition include the following:

- Concern about the loss of green spaces (and the historic understanding that the area would not be built on).
- Increased traffic congestion in an overly developed area with roads that are 'gridlocked' at peak times, and the need for the Northern Relief Road.
- The lack of necessary infrastructure to support housing development.
- Overdevelopment given residential developments elsewhere in Sittingbourne.
- Loss of the historic rural character of Tonge.
- Impact of new residents on local services – doctors, schools, etc.

5.8 The feedback also highlighted that a majority of residents would like to see a local shop; improved transport links; improved pedestrian paths; open space and playground as communal benefits.

5.9 Comments received during the public engagement have influenced the proposals as follows:

- The addition of 450 sqm of non-residential floorspace to accommodate either a local shop / commercial use (if a demand exists) and / or some other form of community facility;
- Pedestrian footpaths and cycleways are increased throughout the site, including a circular walk that links with existing residents at East Hall Farm;
- Improvements and upgrades to the PROW. This is proposed to be upgraded to “bridleway” standards to allow for cyclists and pedestrians.
- An increase in play spaces dispersed around the site to provide communal benefits for new and existing residents; and,
- Increased accessibility towards Sittingbourne Golf Course to the north, and the emerging Stones Farm park to the south.

## **6. PLANNING CONSTRAINTS**

6.1 The application site itself is not covered by any planning constraints other than:

- Parts of the site being covered by Brickearth Safeguarding
- The site being within the 7 km zone of influence of the Swale and Medway special protection areas

6.2 The closest Air Quality Management Area (AQMA) being situated approximately 1.6 km to the south-west of the Site, AQMA No 3 – East St, Sittingbourne Kent. This AQMA

was declared for exceedances of the annual mean nitrogen dioxide (NO<sub>2</sub>) air quality objective.

- The Grade I Listed Church of St Giles lies approximately 35 m to the east of the Site, on the opposite side of Church Road; the Grade II Listed West Tonge Farm lies immediately to the northwest of the Site; the Grade II Listed East Hall

lies approximately 310 m to the west of the Site; and the Grade II Listed Bunces Farm lies approximately 375 m to the southeast of the Site.

- The Tonge Conservation Area lies approximately 50 m to the south of the Site.
- The Swale Site of Special Scientific Interest (SSSI), Ramsar Site and Special Protection Area (SPA) lies approximately 220 m to the north of the Site, at the closest point..
- The majority of the Site is located within Flood Zone 1, representing a very low risk of flooding from fluvial sources; the south-eastern area of the Site is located within Flood Zone 2, representing a low / medium risk of flooding
- At a local level, the Site is situated within the extent of the Teynham Fruit Belt Landscape Character Area. The Site does not lie within any statutory landscape designations. The nearest is the Kent Downs Area of Outstanding Natural Beauty (AONB), which is located approximately 5.2 km to the southwest of the Site.
- There is an Area of High Landscape Value (Swale level) directly to the east of the Site and there is an Area of High Landscape Value (Kent level) located approximately 75 m to the north-west of the Site,(which covers most of the 'Murston lakes' part of the MU2 allocation.

## 7. ENVIRONMENTAL IMPACT ASSESSMENT

### *EIA Scoping Opinion*

#### 7.1 Under regulation 26 of the EIA regs:

26.—(1) When determining an application or appeal in relation to which an environmental statement has been submitted, the relevant planning authority, the Secretary of State or an inspector, as the case may be, must—

(a) examine the environmental information;

(b) reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account the examination referred to in sub-paragraph

(a) and, where appropriate, their own supplementary examination;

(c)integrate that conclusion into the decision as to whether planning permission or subsequent consent is to be granted; and

(d)if planning permission or subsequent consent is to be granted, consider whether it is appropriate to impose monitoring measures.

7.2 In accordance with EIA Regulations, the Proposed Development could constitute EIA Development as the proposals significantly exceeds the description of development listed within Schedule 2 of the EIA Regulations: 10b Urban Projects (i.e. it is a development that includes more than 150 dwellings and exceeds the overall area of 5 ha). Above this threshold a screening for significant environmental effects is required. Whilst SBC considered an EIA was not required, the Applicant undertook to provide a full EIA which has been provided as part of this planning application. The consideration of this application takes full account of this environmental information.

7.3 An EIA Scoping Opinion was submitted to SBC on 4th February 2022 and a formal response was received from SBC on 15th March 2022.

7.4 This included consulting with a number of organisations. Responses were received from the following:

- Environment Agency
- Kent County Council (KCCH) Ecology/Biodiversity
- Southern Water
- Natural England
- National Highways
- Kent County Council Highways
- Kent County Council Flood and Water Management
- Kent County Council Minerals
- Swale Borough Council Design/Conservation
- Kent County Council Public Rights of Way



- Kent County Council Development Contributions
- Historic England
- Environmental Health.

7.5 Whilst the original Scoping Response received from SBC was for “up to 330 units”, the proposals submitted as part of this OPA now include “up to 380 units” and 450 sqm of non-residential floorspace (Use Class E/F).

7.6 A letter was submitted to SBC on 9th May 2022 to confirm the revised description of development. This letter set out that the change does not make any difference to the scope and methodology of the assessments and also does not make any difference to the consultations of the EIA Scoping Opinion.

7.7 A response was sent on 16th May 2022 from SBC confirming that the uplift in unit numbers and addition of non-commercial floorspace will not be a material change to the proposals submitted as part of the Scoping Opinion and response.

#### *Summary of Environmental Impact Assessment*

7.8 The environmental impact assessment includes, as required by regulations, a nontechnical summary. The key findings of this are as follows:

7.9 Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, SI 2017/571 (“the EIA Regulations”) an Environmental Impact Assessment (EIA) has been prepared.

7.10 The ES comprises of four key volumes:

- ES Volume 1: Non-Technical Summary NTS – this document, which is provided as a standalone document but also forms Volume 1 of the ES, summarising the other Volumes;
- ES: Volume 2: Main Text – contains the main text of the ES and should be read in conjunction with Volume 3;
- ES Volume 3: Landscape and Visual Impact Assessment (LVIA) – this document provides an assessment of the landscape and visual effects of the Proposed Development; and

- ES Volume 4: Technical Appendices – the appendices to the ES, including additional information, data and figures.

7.11 As part of the scoping exercise, it was agreed with SBC (and statutory consultees) in March 2022 which topics would be scoped in and out of the EIA.

#### *Alternatives Considered*

7.12 Alternative locations for the Proposed Development were not considered, given that the Site is allocated under Policy MU 2 (Land at north-east Sittingbourne) of SBC's adopted Local Plan (2017) for development.

7.13 The consideration of alternatives, as required by the EIA Regulations, should address the evolution of the Site in the absence of the Proposed Development in question. This is known as the 'do nothing' scenario.

7.14 In the absence of the Proposed Development, there are two possibilities as to how the Site would evolve:

- Given that the Site is allocated under Policy MU 2 of SBC's Local Plan for 106 dwellings, it is reasonable to assume that the Site would be developed to provide the 106 dwellings as outlined.
- It is also possible that the Site would remain as an undeveloped piece of land with areas of trees / shrubs across the Site. However, the continued use of the Site as undeveloped land would mean that the Site would fail to contribute to key housing aspirations of SBC.

7.15 Prior to the consideration of different design iterations, an alternative design option was considered which involved Safeguarded Land for the Sittingbourne Northern Relief Road (SNRR); this was due to SBC requesting that any development proposal for the Site safeguard land for future route options of the SNRR. This is based on the adopted Local Plan policy requirements Policy AS 1 (Safeguarded area of search: Sittingbourne Northern Relief Road – The A2 link) and Policy MU 2 (Land at northeast Sittingbourne).

7.16 Should the SNRR come forward, this would require additional land associated with the majority of the proposed Phase 3 and Phase 4 of the development.

7.17 A high-level qualitative assessment of the effects associated with the Safeguarded Land option is presented in Volume 2, Chapter 4: Alternatives Considered and Design Evolution, which concluded that there primarily would not be any changes to the significance of effects for the Proposed Development (i.e. up to 380 dwellings) in

relation to cultural heritage; ground conditions and contamination; and hydrology, flood risk and drainage.

- 7.18 However, the high-level qualitative assessment concluded that the Safeguarded Land option could reduce the significance of effects (both beneficial and adverse) as assessed for the proposed development, in relation to socio-economics, ecology, air quality, noise and vibration and transport.

### *Energy*

- 7.19 The Proposed Development will follow an energy strategy. The proposed energy strategy will follow a hierarchy of three stages: 1) Energy Efficiency, 2) Heat Networks, and 3) Renewables. This hierarchy will ensure energy efficiency is maximised prior to the improvement of energy supply.
- 7.20 Energy efficiency measures would include enhanced insulation of the building envelope, as well as improving air tightness and specifying energy efficient lighting and appliances.
- 7.21 Heat networks were not recommended for the Proposed Development, due to the cost that would potentially be passed onto home-owners.
- 7.22 In view of the above, it was recommended that air source heat pumps (ASHPs) are used as the appropriate renewable strategy for the provision of heating and cooling within the Proposed Development.
- 7.23 Based on the energy efficiency measures and use of ASHPs, the proposed development will achieve a reduction in Site-wide regulated carbon dioxide emissions of at 50 % against Part L of the 2013 Building Regulations.

### *Socio-Economic*

- 7.24 The socio-economic chapter of the assessment finds the greatest significant beneficial effects relate to the additional 380 houses within the Proposed Development which will contribute to tackling the current housing shortage across Swale.
- 7.25 Furthermore, the significant adverse effects (prior to the implementation of additional mitigation) are related to the secondary education and healthcare receptors, for which there is already a shortfall. Minor beneficial effects include: the increase in employment during construction; open space, playspace and increased expenditure by the additional new residents (generated by the proposed development).

- 7.26 Furthermore, there are negligible effects anticipated on the impact of the additional population on availability of childcare and primary education provision in the study area.

### *Cultural Heritage*

- 7.27 The cultural heritage chapter of the EIA has assessed the likely significant effects of the proposed development on the archaeological resources, built heritage and the historic landscape.
- 7.28 The northern and south-eastern extents of the Site may have the potential to contain archaeological remains of the Palaeolithic, Mesolithic, Neolithic, Bronze Age and Iron Age to Roman date.
- 7.29 The potential for archaeological activity of medieval or post-medieval date is considered to be low.
- 7.30 Given that the majority of the Site has been subject to brickearth extraction, this is likely to have destroyed archaeological remains to a certain depth.
- 7.31 Due to the proximity to the Grade I Listed Church of St Giles and the Grade II Listed buildings at West Tonge Farm, there may be some noise and visual intrusion arising from the presence of cranes, vehicles, flashing lights etc. within the Site and accessing the Site. However, these changes are temporary and short term, limited to working hours and for the duration of the construction programme. This would result in a minimal impact to the Grade I Listed Church of St Giles, a heritage receptor of high sensitivity and to the Grade II Listed Buildings at West Tonge Farm, heritage receptors of medium sensitivity which would result in a temporary, direct, minor adverse effect to these receptors. The study finds that the proposed development would result in less than substantial harm, at the low end of the spectrum, to the heritage interest of the Grade I Listed Church of St Giles, via a change in setting. This is a permanent, direct, moderate adverse effect; however, it is considered to be not significant in EIA terms, as it would result in less than substantial harm.
- 7.32 The Proposed Development would result in less than substantial harm, at the low end of the spectrum, to the heritage interest of the Grade II Listed Buildings at West Tonge Farm, comprising the farmhouse, stables and granary, through an alteration to setting. This is a permanent, direct, minor to moderate adverse effect; however, it is considered to be not significant in EIA terms, as it would result in less than substantial harm.
- 7.33 The Proposed Development would result in no harm to the heritage interest of the Tonge Conservation Area, Grade II Listed East Hall and Grade II Listed Bunces Farm and Barn at Bunces Farm, and therefore there would be a neutral effect which is considered to be not significant in EIA terms.

*Ecology*

- 7.34 The Site comprises three agricultural fields that are subject to active arable cultivation or set-aside; two fields that were formerly under arable cultivation but have since become colonised with grassland, tall ruderal and scrub vegetation; a series of hedgerows and scrub-belts marking the field boundaries; and a block of secondary woodland. The Site also supports a population of reptiles (slow-worm, common lizard and grass snake), foraging / commuting bats (predominantly common pipistrelle and soprano pipistrelle, but with noctule, brown long-eared bat and *Myotis* species also recorded), two badger setts, and an assemblage of breeding and wintering birds that are consistent with the habitats present.
- 7.35 A considerable volume of pre-existing survey information is available for the Site, which includes survey data for dormouse, great crested newts, reptiles, badgers, bats and birds. Additional survey work was undertaken between October 2021 and May 2022, comprising an extended Phase 1 habitat survey, and specific surveys for badgers, bats, water vole, reptiles and birds
- 7.36 Beyond the Site itself, there a number of nature conservation designations within the wider area, the closest of which is The Swale, which is subject to designation as a SAC, Ramsar site, and SSSI. The consultation process included pre-application discussions with Swale Borough Council, and Kent County Council's Ecological Advice Service ('KCC Ecology'), where the scope of surveys and matters for assessment were agreed. Mitigation that is to be embedded to the design of the Proposed Development include the Landscape and Open Space Strategy (as set out within the Design and Access Statement), which has sought to retain the woodland, scrub-belts and hedgerows as far as possible within the proposed development, and to create new locally-appropriate habitats, including ponds and representations of the Priority types traditional orchard and reedbed. These habitats would also form part of the seminatural public open space provision, which is intended to serve much of the day-to-day recreational needs of new residents. Further embedded measures include:
- The Ecological Mitigation Strategy (provided in ES Volume 4, Appendix C3), which contains protected species mitigation strategies and a strategy for achieving biodiversity net gain;
  - Financial contributions towards the Strategic Access Management and Monitoring ('SAMM') measures for The Swale SPA / Ramsar site;
  - The proposed CEMP;
  - The outline surface water drainage strategy, which includes details of foul and surface water treatments and discharge pathways. Proposed additional mitigation measures include:

- Tertiary surface water treatment, and a drainage infrastructure maintenance and monitoring regime; and
  - A sensitive Lighting Design Strategy. Impacts during construction phase will relate to direct loss of habitats, with the impacts of greatest magnitude relating to habitats such as arable, species-poor semi-improved grassland, and tall ruderal, which do not have any elevated conservation status. There will also be temporary losses of habitat for reptiles, badgers, and foraging / commuting bats.
- 7.37 During the operational phase, there will be beneficial impacts associated with the maturation of new habitats and implementation of appropriate management, which will serve to improve impacts on protected species, as identified above. Additional mitigation, comprising a sensitive lighting scheme, will further reduce operational phase impacts on foraging / commuting bats.
- 7.38 With the effective implementation of the Landscape and Open Space Strategy, Surface Water Drainage Strategy, the proposed tertiary surface water treatment, a drainage infrastructure maintenance and monitoring regime, the CEMP, and the financial contributions towards the Strategic Access Management and Monitoring ('SAMM') scheme, no likely significant effects are predicted for any nature conservation designation.
- 7.39 Accordingly, with the effective implementation of the embedded and additional proposed mitigation, the construction and operation of the proposed development are not predicted to result in any likely significant effects beyond the Local level.

#### *Air Quality*

- 7.40 The air quality assessment has considered the likely significant effects of the construction and operation of the Proposed Development on the environment with respect to air quality. Based on monitoring data and DEFRA background mapped concentrations, baseline pollutant concentrations at receptors which may be affected by the proposed development in the vicinity of the Site are not typically expected to exceed the relevant air quality objectives (AQOs).
- 7.41 The air quality assessment considered the effects of fugitive dust from construction related activities on human health, amenity and ecological receptors in accordance with best practice guidance. It also used detailed dispersion modelling to quantify the change in pollutant concentrations brought about by road traffic attributable to construction activities associated with the proposed development. Before mitigation, the dust risk assessment identified that construction activities pose a maximum of a high dust risk to dust soiling, a low dust risk to human health and a negligible dust risk to ecological receptors.

- 7.42 With the implementation of embedded mitigation measures which will be implemented via a CEMP, construction activities connected with the proposed development are expected to have a negligible effect on existing receptors. The air quality assessment

has considered changes in traffic levels along the local road network as a result of the operational Proposed Development. NO<sub>2</sub> and PM<sup>10</sup> have been modelled for the assessment using the most recent version of ADMSRoads. Predicted concentrations have been compared against local monitoring data to verify the model output. Changes in air quality impacts at existing receptors as a result of changes to traffic flows have been assigned impact descriptors based on the most recent Environmental Protection UK and the Institute of Air Quality Management (IAQM) air quality planning guidance.

- 7.43 The change in predicted NO<sub>2</sub> and PM<sub>10</sub> concentrations at existing receptors in the anticipated opening year of the Proposed Development (2027), compared to completion of the Proposed Development, is considered to be negligible in terms of effect, with the exception of two existing receptor locations (i.e. at approximately 151 East Street and approximately 49 Samuel Drive), where the effect is considered to be minor adverse (not significant). In terms of introducing new exposure, the predicted PM<sup>10</sup> and NO<sub>2</sub> concentrations at the Proposed Development are below the relevant objectives. No residual effects considered to be significant in EIA terms have been identified.

#### *Noise and Vibration*

- 7.44 The noise and vibration assessment has been based on environmental surveys, predictions and calculations undertaken for the Site. The main sources of noise on the Site and surrounding receptors are road and rail traffic noise, and commercial noise from units within the surrounding buildings. The impact of noise and vibration during construction of the Proposed Development has been predicted and assessed in accordance with BS 5228.
- 7.45 Impacts from construction activities are predicted at the closest noise sensitive receptors to the works, with temporary minor to moderate adverse effects likely at the closest dwellings to the Site on Deane Close, Debnam Grove and Haffenden Avenue, with short periods of noise levels leading to major impact (prior to the implementation of mitigation measures). Best practicable means measures have been recommended to minimise noise and vibration from the construction works.
- 7.46 The impact of noise and vibration during construction of the proposed development on the completed properties within the Site (when they are anticipated to be occupied) has been predicted and assessed in accordance with BS 5228. Impacts from construction activities are predicted at the properties within all of the phases of the construction, with temporary minor to moderate adverse effects likely at the closest dwellings to the site (following the implementation of mitigation measures).

- 7.47 Best practicable means measures have been recommended to minimise noise and vibration from the construction Site. It is predicted that off-site traffic, as a result of construction activities, will not affect the noise environment due to an increase in construction traffic on the surrounding road network.
- 7.48 Operational road traffic has been assessed in terms of a change in noise associated with the operation of the proposed development. Long term, negligible effects during full operation have been predicted along Swale Way, B2005 Grovehurst Road, Castle Way, Eurolink Way (East) and Crown Quay Lane.
- 7.49 A site suitability assessment has also been completed. A noise model has been used to predict road traffic noise levels at the proposed façades and external spaces of sensitive receptors within the Proposed Development when operational. It is likely to be feasible to meet the BS 8233, WHO guideline internal noise levels using the following practical design approach for the building façade and avoid adverse effects for future residents:
- Specific calculated assessment required of sound insulation for all elements of the building envelope;
  - For the northern, eastern and western part of the Proposed Development, standard performance double glazing;
  - For the southern part of the Proposed Development along Church Road, moderate performance double glazing;
  - Moderate sound insulation performance required for walls and roof; and
  - An alternative means of ventilation should be designed capable of performing to the same acoustic specification as associated glazing to remove the need to ventilate the properties facing south towards the rail line using openable windows.
- 7.50 Guideline external noise levels are likely to be met for the majority of residential amenity areas within the proposed development.
- 7.51 Vibration exposure from the rail sources were measured during an attended survey to determine the vibration levels during the daytime and night-time. The levels measured indicate that adverse comment is not expected. The assessment indicates that the required criteria can be met for all uses without any specific mitigation measures.



*Ground Conditions and Contamination*

- 7.52 The assessment of baseline conditions identified the western, central and southeastern fields have most likely been historically worked for brickearth. There was no observed evidence of substantial filling; however, there is the potential for infilled land in areas of historical workings.
- 7.53 Based on the above, potential sources of contamination include the historical Site use associated with brickearth workings, current agricultural use and potential interaction with fly tipped material including suspected asbestos containing material (ACM). The Site may also have been impacted by the presence of substantial surrounding historic brickearth workings which may have been backfilled and impacted local groundwater and / or be generating ground gas which could migrate.
- 7.54 A preliminary minerals assessment estimated a total maximum extractable volume of brickearth within the Site to be approximately 65,000 cubic metres (m<sup>3</sup>) based on a reserve thickness of 2.3 m and accounting for historical workings and buffer zones. This was assessed to not be of economic value nor practicable to work, based on the relatively small extractable volume and confirmation of a much larger site by Iwade, 5 km north-west of Site, being of marginal viability at best.
- 7.55 The ground conditions and contamination assessment was carried out following methodology stated with Contaminated Land guidance documents, British Standards and construction works documentation by the Health and Safety Executive (HSE) and the Construction Industry Research and Information Association (CIRIA). Consultation with appropriate bodies including Kent County Council, the Environment Agency and a local brick manufacturer (Wienerberger Ltd) was undertaken prior to writing the ES chapter.
- 7.56 Construction phase impacts identified include disturbance of possible made ground; increased infiltration and leaching of mobile contaminants into bare soils; construction of below ground services (gas / electric / sewers etc.) creating preferential pathways for contaminants; creation of foundations creating preferential pathways into the aquifers beneath the Site at depth; and possible mineral sterilisation of the brick earth deposits. Operational phase impacts include a possible reduction in contaminants impacting Site users / occupants and entering the aquifers below the Site due to appropriate remediation of encountered contamination during the earthworks.
- 7.57 Additional mitigation measures considered include a programme of intrusive Site investigation aiming to locate and characterise potential made ground in infilled historic brickearth workings to determine the extent or indeed necessity of remediation measures required.

- 7.58 With appropriate embedded and additional mitigation implemented, construction and operation phase impacts on ground conditions will be reduced to between minor adverse and moderate beneficial significance (i.e. not significant to significant).

*Hydrology, Flood Risk and Drainage*

- 7.59 The assessment identified the following potential construction phase impacts relating to the Proposed Development:

- Changes to existing flood risk; and
- Pollution of surface watercourses (on-site watercourse, the River Swale (including SSSI / SPA / Ramsar designation), the Murston Lakes (angling lakes) and the Murston lakes).

- 7.60 The main receptors identified at the Site are the on-site watercourse, the River Swale (and associated designations), the Murston Lakes (angling lakes) and the Murston Lakes in terms of source of flood risk and susceptibility to water pollution.

- 7.61 Considering flood risk, a detailed Flood Risk Assessment (which has been submitted as part of the planning application) has been carried out for the Site and an assessment of potential effects on potential receptive watercourses and other hydrological elements has been carried out. The development area of the Site is shown to be at very low risk of fluvial flooding. The on-site watercourse, the Murston Lakes (angling lakes), and the River Swale (including its designated site status) are the main receptors in the area, being considered a low, a high, a high and a high sensitivity receptor respectively.

- 7.62 Prior to mitigation, the assessment identifies that the Proposed Development may have potential significant effects upon the River Swale (moderate – minor adverse effects), the Murston Lakes (moderate – minor adverse effects) and the Murston Lakes (angling lakes) (moderate – minor adverse effects), resulting from sedimentation / contamination if the Proposed Development proceeds unmitigated. Following the incorporation of the embedded mitigation measures outlined the assessment does not identify any likely significant adverse residual effects. The effects of the Proposed Development on water quality (sediment runoff, fuels and chemicals spillages and concrete and cement ingress) are considered to be negligible.

- 7.63 During the construction phase, there will be negligible residual effects to the identified receptors, following the incorporation of embedded mitigation. The assessment identified the following potential operational phase impacts anticipated to arise from the Proposed Development:

- On-site flooding;
  - Off-site flooding; and
  - Pollution of surface watercourses (on-site watercourse, the River Swale (including SSSI / SPA / Ramsar designation), the Murston Lakes (angling lakes) and the Murston lakes).
- 7.64 The on-site watercourse, the Murston Lakes (angling lakes), the Murston Lakes and the River Swale (including its designated site status) are the main receptors in the area, being considered a low, a high, a high and a high sensitivity receptor respectively.
- 7.65 Embedded mitigation measures (surface water drainage strategy) have been outlined in order to mitigate the potential operational phase impacts upon the defined receptors.
- 7.66 The embedded mitigation of the sustainable drainage network would ensure that there are no adverse residual effects associated with the Proposed Development in terms of flood risk and risks to the water quality of the on-site watercourse, the Murston Lakes (angling lakes), the Murston Lakes and the River Swale (including its designated site status). The inclusion of the embedded mitigation (surface water drainage strategy) results in a minor beneficial operational effect, with the drainage strategy attenuating surface water on-site prior to discharging at a greenfield rate.
- 7.67 The proposed development will increase impermeable area on-site, resulting in surface water runoff, if unmanaged.
- 7.68 In order to prevent flooding on and off the Site, attenuation and controlled discharge will be utilised to control surface water flows. These features are designed to store the volume of water associated with a 1 in 1000-year rainfall event, plus an additional allowance to account for increased rainfall due to climate change. This will provide a betterment over the existing scenario.
- 7.69 Following the incorporation of the embedded mitigation measures the assessment does not identify any likely significant adverse residual effects.

### *Transport*

- 7.70 Chapter 13: Transport demonstrates that:
- The Site is located approximately 2.7 kilometres to the east of Sittingbourne town centre and station, in an area that is accessible by a range of transport

modes, albeit it is accepted that Census data shows there is a general reliance on the private car for work-based trips.

- The existing road network is not subject to a poor safety record.

7.71 The transport assessment, which has been prepared in accordance with best practice guidance issued by the Institute of Environmental Management and Assessment and that outlined in the Planning Practice Guidance, confirms:

- The Applicant will operate management regimes that seek to minimise disruption linked to Heavy Goods Vehicles (HGVs) in the construction phase

and encourage use of all modes of transport in the operational phase to minimise reliance upon the private car.

- The Proposed Development includes design interventions that will ensure future residents are able to make direct connections to existing pedestrian, cycle and public transport networks, with the latter expected to be improved by way of a financial contribution.

7.72 It outlines the embedded mitigation that will be provided in both the construction and operational phases, which includes:

- A Construction Environmental Management Plan (CEMP) to ensure any disruption attributed to the construction phase is kept to an absolute minimum.
- Financial contributions towards enhancing bus connectivity for future residents during the operational phase.
- Enhanced pedestrian and cycle connections to the established Active Modes network.
- Operating a Residential Travel Plan to encourage future residents to be less reliant on car borne travel.

7.73 The transport assessment considers the effects of the Proposed Development upon a study area that has been informed through discussions with Kent County Council in its capacity as Local Highway Authority. On the basis of the assessment undertaken, it is finds that:

- the effects of the construction phase will be short term and negligible, and that the cumulative effects of committed developments would also be negligible on

the basis that the committed development are either (i) built and / or (ii) not of a scale that would generate more traffic that has been assessed for the operational phase and / or (iii) not be located where there would be overlap of road space.

- The effects of the operational phase, which considers a wider range of committed and / or planned developments than that outlined in Volume 2, Chapter 3: EIA Methodology, will be permanent but of negligible significance. In this regard, there is not a requirement to provide any additional mitigation to the design interventions that have been identified.
- It is anticipated that construction traffic will travel towards the Site along the A249. From the A249, the construction traffic is anticipated to travel along an extended Swale Way to access the Site. No construction traffic will pass through the residential area of the existing East Hall Farm development to the south-west of the Site.

#### *Cumulative Effects*

- 7.74 There are two types of cumulative effects: Intra-Project effects which result from the interaction of individual effects from the Proposed Development on a particular receptor and Inter-Project effects which result from the combined effects of other projects alongside the Proposed Development.
- 7.75 In terms of intra-project effects during construction of the Proposed Development, there is the potential for combined effects relating to increased noise and vibration and dust. When these impacts are combined, they have the potential to create a nuisance effect on residential receptors along Housson Avenue, Deane Close and Debnam Grove. However, it should be noted that effects during the noisiest periods would be addressed in the form of 'Best Practicable Means' and controlled and managed through the Section 61 process of the Control and Pollution Act 1974. This, combined with the implementation of the CEMP, would reduce the potential interactive effect. Whilst there is the potential for combined adverse (i.e. nuisance). Throughout the construction of the Proposed Development, the magnitude of impacts will vary (depending on the type and location of construction work). Therefore, these combined effects are temporary and transient in nature.
- 7.76 During the construction of the Proposed Development, there will be impacts upon the change to the setting of heritage assets, as well as Landscape Character Areas (LCAs) and Areas of High Landscape Value, giving rise to the potential for intra-project effects. The effects on heritage assets (such as the impact of the Proposed Development on assets such as the Church of St Giles and West Tonge Farm) may interact with the overall LCA of the Teynham Fruit Belt and the Area of High Landscape Value. However, it should be noted that assessment of LCAs consider heritage assets in

determining the sensitivity of landscape character and as such, to a certain extent, the effect on the setting of heritage assets is 'built in' to the landscape assessment. As a result, interactive effects are not considered to be any greater than the reported effect for the Heritage and Landscape and Visual effects identified for the proposed development.

7.77 During the operation of the proposed development, there is also the potential for interactive effects between the Heritage and Landscape and Visual effects identified for the operational proposed development. However, they would not be any greater than the reported effects above and the potential interactive effect would be mitigated by embedded design measures including (but not limited to):

- The retention of existing vegetation along the eastern Site boundary, adjacent to Church Road, with public open space lining the retained trees in this location in closest proximity to the Church of St Giles;
- The density of the proposed Development in closest proximity to the Church of St Giles will be stepped down; and
- Open space will be located in the northern part of the Site, in closest proximity to the heritage assets at West Tonge Farm.

7.78 In terms of inter-project effects there will also be some significant cumulative effects when considering the proposed development with the surrounding cumulative. Significant beneficial cumulative effects will result from:

- An increase in construction employment (Moderate-minor beneficial);
- An increase in spending in Swale during construction (Moderate-minor beneficial);
- The impact of additional housing provision (Major-moderate beneficial);
- Changes in operational employment (Moderate-minor beneficial); and
- Spending of additional population within the local economy (Swale) (moderate-minor beneficial).

7.79 Significant adverse cumulative effects will result from:

- The impact of the additional population on the supply of secondary school places (Moderate-minor adverse).

7.80 Conclusion on Environmental Effects

7.81 Officers concur with the overall conclusions of the EIA as supplemented by further environmental information and mitigation proposals. There are beneficial effects in terms of housing, and employment. Certain effects such as noise and air quality can be successfully mitigated. Mitigation proposals have been brought forward in terms of impact on heritage assets.

## 8. POLICY

### *Development Plan*

8.1 The current development plan for the purpose of Section 38(6) of the Planning and Compulsory Purchase Act (2004) consists of:

- Bearing Fruits Local Plan 2031 (Adopted 2017), and

8.2 Kent Minerals and Waste Local Plan 2013-2030 (Adopted 2020). Bearing Fruits 2031: The Swale Borough Local Plan 2017

- ST 1** Delivering sustainable development in Swale;
- ST 2** Development targets for jobs and homes 2014- 2031;
- ST 3** The Swale Settlement strategy
- ST 4** Meeting the Local Plan Development Targets
- ST 5** The Sittingbourne Area Strategy
- CP 2** Promoting Sustainable Transport
- CP 3** Delivering a Wide Choice of High-Quality Homes
- CP 4** Requiring Good Design
- CP 5** Health and Wellbeing
- CP 6** Community Facilities and Services to Meet Local Needs
- CP 7** Conserving and Enhancing the Natural Environment – Providing for Green Infrastructure
- CP 8:** Conserving and enhancing the historic environment
- DM 6** Managing Transport
- DM7** Vehicle parking;
- DM8** Affordable Housing;
- DM 14** General development criteria;
- DM 17** Open Space, Sports and Recreation Provision
- DM 19** Sustainable design and construction;
- DM 21** Water, flooding and drainage;
- DM 24** Conserving and Enhancing Valued Landscapes
- DM 28** Biodiversity and geological conservation;
- DM 29** Woodlands and Trees

**MU2** Land at North-East Sittingbourne

**DM 28** Development Involving Listed Buildings

**AS 1** - (Safeguarded Area of Search: Sittingbourne Northern Relief Road – The A2 Link)

Note this policy solely covers safeguarding. Access to the site is covered by separate policy MU2(5).

Kent Minerals and Waste Local Plan 2013-2030 (2016)

**DM 7**

8.3 The Council also have a number of Supplementary Planning Documents including the following:

Air Quality and Planning – Technical Guidance (July 2019);

Swale Parking Standards (May 2020);

Open Spaces and Play Area Strategy 2018-2022;

Swale Heritage Strategy 2020 – 2032;

Developers Contributions SPD (2009);

Planting on New Developments: A Guide for Developers (February 2011); and, Conservation Area SPG (Feb. 2011) and Tonge Conservation Area Character Appraisal (2003).

## 9. LOCAL REPRESENTATIONS

### Residents

9.1 60 letters of objection from local residents, 2 in favour. In summary the key points raised are:

- Concern over access through narrow street on Heron Way/Great East Hall Development and congestion on Great East Hall/Swale Way roundabout.
- The proposed access routes through Deane Close,
- Debnam Grove and Haffenden Avenue are neither structurally capable of supporting additional traffic (the roads are not being adopted by KCC due to their substandard structure) neither are they wide enough to cope with additional traffic.
- More houses than allocated in Bearing Fruits local plan



- The Impact on character of Hamlet of Tonge
- Impact on wildlife
- Loss of countryside 'Although new development is taking place throughout the area, it is still just about possible for cyclists following National Cycle Route 1, or walkers heading for the Saxon Shore, to have a feeling of passing through open countryside. Local historic buildings such as the mills and the church are seen in an unspoiled setting. The unique character of this area would be lost.
- Congestion and impact on rural roads. Concerns over temporary one-way system on Scraps Hill Triangle.
- Residents will park on Church Road and take a short cut to A2
- Pressure on GP surgeries – Teynham surgery is closing due to lack of suitable premises
- Pressure on schools
- Loss of agricultural land
- Will help [people get back on property ladder
- Will increase flooding from run-off
- Contrary to Policy DM25 of the Swale Local Plan (2017) [Note the local gap on this site was removed as part of the Bearing Fruits local plan and allocation of the MU2 site.]
- Loss of Green Belt [no Green belt in Swale]
- Was previously rejected for extension to Great East Hall Estate because of flood risk [this is not the case it was allocated for development in 2017]
- Housing should be up north
- Doesn't resolve cut off nature of Great East Hall Estate which is cut off from Sittingbourne by a long detour 'at busy times residents in Great East Hall and Heron Fields face traffic chaos, taking up to 2 hours to get from Sittingbourne to their homes.'

- Northern Relief Road has not been completed 'A relief road would provide more tangible benefit to Sittingbourne residents than 380 more houses.'
- Would block completion of Northern Relief Road
- 'If we had Northern Relief Road would be ok'
- 'Do not expand further and no need for link roads'
- Emergency access to South East of site would be difficult to manage
- Pollution and impact on air quality
- If there is an accident Swale Way becomes gridlocked
- Construction traffic on narrow roads
- Lack of local bus services
- Brownfield sites in other parts of Kent
- Urban sprawl with Bapchild
- Loss of trees
- Parking Overflow on unadopted Herons Fields roads

## **9.2 Bapchild Parish Council (02.11.2022) - Objection**

*concerns about the extra traffic which will be generated by this application, and which will inevitably filter out through Tonge via Hempstead Lane to the A2. This will add to the already overloaded Bapchild/Teynham/A2 corridor.*

*This and all other schemes including 22/503418 and 20/506066 surrounding the east of Sittingbourne need to form part of the Local Plan and be considered as part of a wider integrated review rather than be considered in isolation.*

**9.3 Tonge Parish Council (12.10. 2022) Objection**

## 9.4 To revised scheme Sept 2022:

*Any extra traffic going on to the narrow Church Road will encounter large agricultural vehicles which use this road regularly to and from the farms in north Tonge. This could also be potentially used by construction vehicles. We consider this to be dangerous especially as the access will be near to the junction with Lomas Road where cars will be emerging.*

*They are still extremely concerned about how the developer will prevent cars from the rest of the 380 houses using the emergency route to access to Church Road. If this happens there is potentially a large number of cars using the very narrow and winding road around Tonge Mill and up Hempstead Lane to the A2.*

*Further consideration should be given to concerns regarding parking on Church Road and then using the footpath to reach their homes. As this would be quicker than using Swale Way particularly if trying to reach Faversham or Canterbury.*

*They are pleased to see that the developers have proposed an area with twelve parking spaces for the use of St Giles Church. The concerns are that the residents of the proposed housing estate would use them. How would this be prevented and also who would be responsible for the maintenance.*

## 9.5 To original scheme August 2022 (summary – the objection is supported by a 50 page report which is available on public access).

*Fundamentally, the application proposes development which does not meet the requirements of Policy MU2, which are designed to control development of this land.*

*The application states an addition of 274 dwellings to the 106 identified in the policy. Teynham Parish Council note that Kent County Council Highways and Transportation have identified significant failings in the assessment work supporting the scheme and Teynham Parish Council has serious concerns with regard to increased traffic on all surrounding roads, which will exacerbate current road safety and pollution. The NPPF states in Paragraph 8 that three roles (economic, social and environmental) need to be addressed for development to be considered sustainable. Teynham Parish Council have substantial concerns about the adverse environmental impact that this quantum of dwellings will have on the surrounding areas, particularly with regard to highway safety, reduced air quality, the loss of local landscape and biodiversity. Teynham Parish Council do not believe this development can be delivered in a sustainable way, which will negatively affect the people living in both the immediate and surrounding areas.*

9.6 The key arguments made in relation to the compliance with adopted local plan policy MU2 are as follows

- *Capacity: the proposal offers up to 380 residential dwellings – 274 more than the 106 cap set out in the policy. - Mix of Uses: the proposal sees a significant shift in the balance of uses provided for across the site with a greater focus on residential development and much reduced focus on employment*
- *Expansion of Built Development: the proposal indicates a significant expansion of built development, encroaching northwards into areas originally envisaged for strategic landscaping and open space. The balance of built development and open space/undeveloped areas is significantly more weighted toward built development than envisaged in the adopted MU2 allocation policy*

*it does not show that options for a future route for the SNRR through the safeguarded land can be fully considered and at present shows an indicative layout which would not allow for appropriate connection to any future SNRR route to the north at Swale Way or to the south at Lomas Road.*

*Tonge and its immediately adjoining Parish at Teynham have already delivered their fair share of housing and are dealing with the effects of large-scale development at Stones Farm immediately on their doorstep ...*

*Whilst it is fully recognised that development across some of the application area has been considered acceptable in principle by virtue of the Policy MU2 allocation, it is clear that this allocation strongly envisaged a development which made appropriate transition between the urban edge of Sittingbourne and the open countryside beyond....*

*Tonge Parish Council are particularly concerned about the impact of HGV traffic and increased vehicular traffic along Church Road in relation to the physical impacts on the listed St Giles Church and Tonge Mill. The church is already recognised as being at risk with further impact from development and HGV traffic vibration exacerbating the problems. Furthermore, the mill stream bridge which Church Road crosses has already been the subject of serious damage and collapse. HGV usage associated with the construction of the nearby golf range has caused potholes and bank erosion on the rural road.*

*Given that the application proposal does not propose the direct provision of any new healthcare infrastructure and relies entirely upon the payment of S106 financial contributions to the CCG The scheme offers no direct provision of any community infrastructure facilities or services.*

**9.7 Lynstead Parish Council (17.08. 2022) Objection**

- **In excess of local plan**
- **Impact of traffic on rural lanes**
- **Poor public transport**
- **Impact on air quality**
- **Harmful impact on listed buildings**
- **Impact on healthcare and other local services**

**9.8 Sittingbourne Society (02.07.2022) Objection**

*We object to the above major planning application on the following grounds:-*

- The high numbers of new residents would place excessive strains on local services which are already under stress. [Note neither the education authority nor the NHS have objections providing planning obligations mitigate the social infrastructure impact]
- We are unaware of any agreement by the water authorities to provide the necessary infrastructure and finance to meet the needs of this development. They already have problems meeting existing needs and Southern Water have said repeatedly that they cannot meet additional demands on the water and sewage treatment systems. [Note there is no objection from Southern Water – this is dealt with through separate legislation – the Water Act 1981, which places a duty on water authorities to supply and service new development – hence this is not a material planning consideration]
- An extra 380 homes would generate considerable traffic streams to and from the A2 [There is no objection from National Highways or the Highways Authority].
- The development would result in the loss of valuable productive agricultural land and would destroy the rural character of this attractive area of north

Kent.[The local plan allocation MU2 of this site does not envisage any retention of agricultural land on this site].

- The development would destroy the rural gap between Sittingbourne and Tonge. The whole of the Sittingbourne, Bapchild and Tonge area would become one huge urban conurbation. [This land was de-designated from a local gap in the 2017 Bearing Fruits Local Plan]

#### CPRE Kent

*CPRE Kent seeks to ensure the survival of our county's landscapes and heritage and aims to protect the county from inappropriate developments wherever they may occur.*

*The Committee feels that this application contravenes policy MU2 for the following reasons.:*

*The housing numbers are more than three times those stated in policy MU2. This is a very substantial increase, even when one allows that MU2 gave only an approximate number of dwellings. As such the application should fall outside of the remit of policy MU2.*

*Given that the area allocated to business uses remains the same as that envisaged in MU2 the nature of the "mixed use" that policy MU2 foresees will not be achieved.*

*Policy MU2 contains a number of aspirations that relate to landscape and open space provision for this area. It is the Committee's view that this application cannot meet these requirements for at least two reasons:*

*The landscape/biodiversity/mitigation areas identified in policy MU2 lie outside the bounds of the application. It therefore contravenes points 2 & 3 of policy MU2 as stated in the current local plan.*

*With a more than threefold increase in house numbers, it is unlikely that open spaces within the application area will meet the requirements envisaged in the policy.*

*4) Furthermore, the Committee notes the comments of KCC Highways who state that the "application as proposed does not comply with KCC's LTP4 or SBC policy MU2 and AS1 as it prejudices any options for the completion of the Sittingbourne Northern Relief Road.*

*As such, the Committee's view is that the application in its present form should be refused permission.*

## 10. CONSULTATIONS

### 10.1 **National Highways (16.11.2022) No Objection**

10.2 Holding objection withdrawn 16.11.2022.

*Having assessed application (reference 22/502834/EIOUT), we are content that the proposal – an outline application for the development of up to 380 residential dwellings (including affordable homes) and 450 sqm of Use Class E/F floorspace, together with associated open space, play space, and landscaping (All matters reserved except for access) at Land West of Church Road Bapchild Tonge Kent - would not have an unacceptable impact on the safety, reliability, and/or operational efficiency of the Strategic Road Network.*

10.3 This is significant as previous major applications around Sittingbourne and the A249, for example Stones Farm, have been subject to directions from national Highways relating to the completion of the M2 Junction 5 works and/or the housing investment fund works to the A249 junctions at Keycol and/or Key Street. With the likely phasing of the development here and the completion of these works by 2024/2025 National Highways did not feel such a condition was any longer necessary for this scheme.

### 10.4 **Natural England (28.09.2022) No objection - subject to appropriate mitigation being secured**

10.5 Withdrew holding objection 28.09.2022

- We consider that without appropriate mitigation the application would:
- have an adverse effect on the integrity of The Swale Special Protection Area (SPA) and Ramsar site and Medway Estuary and Marshes SPA and Ramsar. <https://designatedsites.naturalengland.org.uk/>.
- damage or destroy the interest features for which The Swale and Medway Estuary and Marshes Site of Special Scientific Interest (SSSI) has been notified. In order to mitigate these adverse effects and make the development acceptable, the following mitigation options should be secured:
- Financial contribution to the North Kent Strategic Access Management and Monitoring Strategy (SAMMS). We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

### *Habitats Regulations Assessment*

*Natural England notes that information has been submitted by Bioscan UK LTD titled 'Information for Habitats Regulations Assessment' (May 2022) and a subsequent Technical Note (August 2022), following our previous comments. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to use the information in the above documents, to fulfil your duty as competent authority.*

### *Recreational Disturbance*

*In our previous response (July 2022) Natural England advised that we were satisfied that a contribution to the North Kent Strategic Access Management and Monitoring Strategy (SAMMS) via the agreed strategic solution would be sufficient to rule out adverse impact on the above listed sites, as a result of recreational disturbance.*

*Natural England can confirm that this advice still stands, so long as contribution is secured via your authorities Appropriate Assessment.*

### *Functionally Linked Land*

*Previously, Natural England raised concerns around the number of surveys undertaken to rule out the application sites potential to be functionally linked to the above mentioned designated sites. We advised that two surveys per month should be undertaken, across two seasons for both breeding and wintering birds. At the time, only two surveys had been undertaken for wintering birds during the 2021-22 season.*

*It is noted that further information has been submitted within the Technical Note (August 2022) highlighting a number of additional surveys for both breeding and wintering birds, which did not find any of the species cited for the designated sites. These surveys are supplemented with further third party data, with the same findings.*

*Therefore we advise that it is unlikely that there is any functional linkage between the application site and the designated sites, thus likely significant effect can be ruled out. We advise this is recorded in your authorities Appropriate Assessment.*

### *Air Quality*

*Natural England has previously acknowledged that the applicants air quality assessment and Information for Habitats Regulations Assessment (May 2022) conclude no adverse effect on integrity for the above mentioned designated sites, as a result of air quality.*



*We advise that we agree with these We advise that we agree with these conclusions, but recommend that it is recorded in your authorities Appropriate Assessment.*

**10.6 KCC Developer Contributions (06.07.22) – No objection subject to S106 contributions as follows**

	<b>Per Applicable House (x380*)</b>	<b>Per Applicable Flat (x0*)</b>	<b>Total</b>	<b>Project</b>
<b>Primary Education</b>	£4,642.00	£1,160.50	£1,763,960.00	Towards a 1FE expansion at Teynham CE Primary School and/or provision of new places within the Sittingbourne East planning group
<b>Secondary Education</b>	£5,176.00	£1,294.00	£1,966,880.00	Towards a new Secondary school within the Borough serving this development
<b>Secondary Land</b>	£2,635.73	£658.93	£1,001,578.67	Towards the land costs for a new secondary school within the Borough serving this development

\*Since the dwelling mix provided is indicative and subject to change this

assessment is based on a worst-case scenario

	<b>Per Dwelling (x380)</b>	<b>Total</b>	<b>Project</b>
<b>Community Learning</b>	£16.42	£6,239.60	Contributions requested towards additional equipment and in-house and remote capacity at Adult Education Centres within the vicinity of the development, including at Sittingbourne Adult Education Centre.
<b>Youth Service</b>	£65.50	£24,890.00	Towards additional resources and upgrade of existing youth facilities including the New House Sports and Youth Centre in Sittingbourne to accommodate the additional attendees, as well as resources and equipment to enable outreach services in the vicinity of the development.
<b>Libraries</b>	£55.45	£21,071.00	Towards additional resources, services, stock, and works to libraries within the vicinity of the development, including Sittingbourne Library and/or Teynham Library.

<b>Social Care</b>	£146.88	£55,814.40	Towards Specialist care accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough.
	All Homes built as <b>Wheelchair Accessible &amp; Adaptable Dwellings</b> in accordance with Building Regs Part M4 (2)		
<b>Waste</b>	£183.67	£69,794.60	Towards additional capacity at the HWRCs & WTS' within the borough
<b>Broadband:</b>	<p><b>Condition:</b> Before development commences details shall be he submitted for installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mbps) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.</p> <p><b>Reason:</b> To provide high quality digital infrastructure in new developments as required by paragraph 114 NPPF.</p>		
<i>Highways</i>		<i>Kent Highway Services will respond separately</i>	

#### 10.7 Environment Agency (06.07.22)– No objection

*We have no objection to the proposed development.*

*Illustrative site layout shows all development in flood zone 1. Only very small areas of the site within flood zone 2.*

#### 10.8 Kent County Council Highways (21.12.22)– No objection subject to S106 contributions

*i. Safeguarding for Sittingbourne Northern Relief Road - Further clarity has been obtained regarding the safeguarding of land within the application site to accommodate the possible delivery of the Sittingbourne Northern Relief Road, and are satisfied that the proposals now offer sufficient comfort to enable the road to be built, should the requirement*

*for and funding of the road be secured in due course, I am satisfied that sufficient obligations can be secured with any approval consented to the current application, in order to safeguard the likely route options that may be considered in the future through the Local Plan review.*

*The S106 agreement should also allow for the land to be transferred to KCC at the appropriate time in order that it can be constructed.*

*ii. Public Transport –The site should be served by public transport to give residents access to buses within the advised walking distances, and this could be provided by extending the 349 bus service into the development. It is expected that the service should continue at the same frequency that it has run. Additional revenue support would be required to facilitate this, and discussions had taken place between the applicant’s highway consultant and the operator of the 349 service. Following the change in bus operator and the current economic challenges to run services, the S106 contribution is being assessed by the Public Transport team to determine what this level of funding should be. At the time of writing, the value has still to be determined so this will be advised on in due course, but it is expected to provide for the extended route for a period of 4 years from its commencement to pump prime the service towards commercial viability.*

*In line with recent developments to encourage the use of public transport by new residents, we would ask that households are each provided with 6 months of bus vouchers amounting to £350 for travel within the borough upon first occupation of that dwelling. This is to influence travel behaviour from the outset rather than changing them after they have settled into less sustainable travel routines.*

*In order to bring the service back into Easthall Way and access the proposed development through the existing bus gate on Oak Lane, KCC intends to introduce ANPR camera enforcement using new powers that Parliament is expected to grant to it shortly under the provisions of the traffic Management Act 2004. It is therefore requested that the sum of £30K be secured through a Section 106 agreement to provide the funding for the installation and maintenance of this.*

*iii. Lomas Road it is suggested that details of highway improvements to achieve the calming of traffic on Lomas Road and Church Road can be submitted as matters for condition discharge. This will enable integration with emerging Highway Improvement Plans being developed by the Parish Council, including the possibility of permanently reintroducing the recent one-way system used around Scraps Hill/Hempstead Lane during the construction project at the Golf Centre. It is accepted that walking and cycling routes through and to the west of the site are appropriate, but it is considered that connection south from Great Easthall through to Peel Drive should be improved in order to encourage sustainable links to Lansdowne Primary School. The highway works should therefore include improvements to the existing crossing point at Tonge Road.*

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*iv. Traffic Distribution (Lomas Road/Murston Road) – Distribution presented now estimates that there would be 22 two-way trips routing through both the Muston Road/A2 and Swanstree Avenue/A2 traffic signal junctions in the AM peak hour, and 20 in the PM peak hour. Highway improvements have been identified for these junctions to be funded through S106 contributions from developments that would pass traffic through them. Accordingly, based on the formula being applied to derive contributions for these schemes, the development will be eligible to contribute £34,492 towards the Murston Road improvements, and £36,208 towards Swanstree Avenue.*

*v. Travel Plan – As noted in the Technical Note, it is agreed that the Travel Plan can be secured by condition in accordance with the document submitted in May 2022 together with the updated measures included within the Vectos Technical Note submitted on 28<sup>th</sup> September 2022. Consequently, I would have no objections to the proposals in respect of highway matters subject to the following requirements being secured to any permission granted:-*

*Provision of a pedestrian crossing facility on Tonge Road connecting through to Peel Drive in accordance with details to be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.*

*Provision of off-site highway improvements to enhance cycling movement on Lomas Road and Church Road as shown indicatively on drawing 2159290/PD09 Rev A in accordance with details to be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.*

*Contribution of £34,492 towards A2/Murston Road junction improvements.*

*Contribution of £36,208 towards A2/Swanstree Avenue junction improvements.*

*Contribution of £2,657 per dwelling for HIF recovery towards A249/Grovehurst Road junction improvements.*

*Contribution of £30,000 towards the provision of bus gate traffic enforcement.*

*Public Transport contribution towards the provision of a half hour frequency bus service into the proposed development for a period of 4 years.*

*The land covered by the AS1 safeguarding policy for the Sittingbourne Northern Relief Road to be safeguarded from future development until such time as it has been constructed or the need for the road has been abandoned.*

*All land required to construct the chosen alignment of the Sittingbourne Northern Relief Road to be transferred to Kent County Council upon notice being served on the landowner.*

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*Any section of road to serve the proposed development that will form part of the alignment of the Sittingbourne Northern Relief Road must be built to distributor road standards with a 7.3m carriageway and separate footway/cycleway in accordance with details to be submitted to and approved in writing by the Local Planning Authority.*

*No vehicular access link, other than for emergency vehicles, shall be provided to allow a vehicular connection between Swale Way and Church Road.*

*No more than 6 dwellings shall be served from the vehicular access on Church Road.*

*Submission of a Construction Management Plan before the commencement of any development on site to include the following:*

*(a) Routing of construction and delivery vehicles to / from site*

*(b) Parking and turning areas for construction and delivery vehicles and site personnel*

*(c) Timing of deliveries*

*(d) Provision of wheel washing facilities*

*(e) Temporary traffic management / signage*

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

*All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved charge point model list:*

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

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

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

*The development shall not be brought into use until a Travel Plan, to reduce dependency on the private car, has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include objectives and modal-split targets, a programme of implementation and provision for monitoring, review and improvement. Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter.*

*The provision of a Sustainable Transport Voucher issued to each new homeowner amounting to £350 per dwelling. To be provided to the first homeowner at the point of sale of each dwelling and for the purposes only of a Bus Travel Voucher.*

*All of the above conditions are included – bar the EV charging condition as since June 2022 this is dealt with through building regulations and not planning.*

#### **10.9 KCC Lead Local Flood Authority (LLFA) – No objection subject to agreement of detailed measures**

*At the detailed design stage, we expect the applicant to demonstrate a suitable outfall can be delivered that does not increase flood risk. We will require the applicant to demonstrate that an effective outfall for surface water is provided for the development layout..*

#### **10.10 Historic England (20.06.2022)– Concerns but no objection**

*The site does not contain any heritage assets however there are a number in close proximity. St Giles Church lies along the eastern boundary of the site on the opposite side of Church Road. The church has medieval origins, with considerable C12 and C14 century fabric surviving. Most notable is the fragmentary survival of the medieval wall paintings in the nave. The church is an entrant on the Historic England Heritage At Risk Register.*

*The church as built to serve the scattered farming population of Tonge. Despite some small-scale 20th century development to its north, the church is otherwise surrounded by agricultural fields, orchards, hedgerows and winding country lanes that give the church a strong rural setting.*

*Today the church is best appreciated from Church Road and from within its churchyard. Dense vegetation around the churchyard and Church Road restrict longer views of the church from the west, the church is slightly more appreciable in views from the east. The church tower does have landmark qualities as it is appreciable in glimpse views from all direction above the vegetation along country lanes and in the surrounding fields, which contributes to our understanding of the origins of the church as a rural parish church and its relationship with the landscape.*

*This is an outline application for up to 380 dwellings of two to four storey buildings to be built on the agricultural fields to the west of the church, with associated roads, public realm and landscaping. This development would expand the eastern extent of Sittingbourne closer towards Tonge.*

*The application would create a new suburban development in the field opposite the church. We recognise the application has sought to minimise the impacts of the scheme on the church, by retaining and reinforcing the existing hedgerows, incorporating a landscape buffer and keeping the building heights closest to the church at 2 and a half storeys. The development would be arranged to maintain views through of the church tower.*

*This mitigation will help to reduce the potential intervisibility between the church and the site. However, due to the density and scale of the development, and its proximity to the church, it is likely that the development will reduce the appreciation of the church's rural setting, causing some harm to the church's significance.*

#### **National and Local Policy**

*Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Planning Authorities to give special regard to the desirability of preserving a listed building or its setting.*

*The National Planning Policy Framework (NPPF) sets out guidance on the application of these duties, and makes clear that any harm to a designated asset, including through development in its setting, must be clearly and convincingly justified and weighed against public benefits (para.200 & 202). Decision takers are also encouraged to seek opportunities for new development within the setting of heritage assets to enhance or better reveal their significance (Paragraph 206).*

*We note the site does have an allocation (Policy MU 2 - Land at North-East Sittingbourne) within the Swale Borough Local Plan 2017 for approximately 106 dwellings. This application therefore represents triple the amount of development than has been allocated.*

*Historic England has produced Good Practice Advice Note 3 'The Setting of Heritage Assets', which provides a framework to help local authorities assess the impacts of development within the setting of heritage assets. It defines setting as 'the surroundings in which an asset is experienced'. This emphasis on experience allows us to think about setting not only in terms of intervisibility of assets and new development, but also to consider impacts in terms of how they affect our understanding of the historic development or function of historic places.*

### *Historic England's Position*

*It is not clear from the application documents whether there would be any intervisibility between the development and the church. We do note that the Landscape and Visual Impact Assessment identifies a moderate adverse change to the setting of the church. Any visibility of the development from the church is likely to have some impact on its setting.*

*Even if visibility of the buildings in views from the church or churchyard is negligible, the scale of the development is still likely to have wider impacts on the rural feel of the area and on the setting of the building. As Historic England's setting guidance and the NPPG make clear, the historic connection between places, the kinetic experience of approaching a place, and factors such as noise can often contribute to the setting of a listed asset. This development would bring the suburbs closer to the church, and will be appreciable (for example, through noise, light, traffic) in the churchyard and on nearby approach roads to the church. The development is therefore likely to somewhat erode the rural origins and landscape qualities that contribute to the setting of the building as a medieval rural church, which is an important characteristic of its significance.*

*We recognise this is an allocated site, and we therefore have no in-principle objection to the site's being developed. The proposals would cause some harm to the significance of the church through the erosion of its rural setting. We would consider this would likely fall within the less than substantial level of harm in NPPF terms, and towards the lower end of that scale.*

*This harm is still material and it will be for your Local Planning Authority to determine whether all possible measures to minimise and avoid harm to heritage significance have been taken (NPPF para.195, including whether it is possible for the development to be provided in less harmful ways, such as if the quantum of development was reduced to align closer to the site's allocation. A clear and convincing justification for any unavoidable harm is also necessary under NPPF para 200. The less than substantial harm will then need to be weighed against the public benefits of the scheme (NPPF para.202).*

*We note the application proposes 'enhancements to the church', details of which have not been shared. Subject to the details of these and securing them through appropriate planning conditions/ s106 agreement, these could offer some heritage related public benefit of the scheme.*

### **10.11 Kent County Council Minerals Officer (04.07.22) – Objection Brickearth safeguarding**

*With regard to land-won minerals safeguarding matters it is the case that part of the area of the application site is coincident with a safeguarded mineral deposit in the area, these being*



*the Brickearth deposits present in the north and south of the application site, and are safeguarded under the provisions of Policy CSM 5: Land-won Mineral Safeguarding.*

*Therefore, the application details should include a Minerals Assessment (MA) to determine if the safeguarded mineral deposit is being needlessly sterilised, and if not whether an exemption to mineral safeguarding pursuant to Policy DM 7: Safeguarding Mineral Resources of the Kent Minerals and Waste Local Plan 2013-30 can be invoked.*

*I have checked the applications submitted documentation; I have been unable to find a MA in support of the application. The submitted Planning Statement does identify the Kent Minerals and waste local plan 2013-30 in Part 5. Planning Policy Context, but then there is no assessment of whether or not the mineral deposits can be sterilised by invoking any of the exemption criteria of Policy DM 7: Safeguarding Mineral Resources. Therefore, the County Council raises an objection to the proposal on land-won mineral safeguarding grounds. It is suggested that the applicant may wish to discuss the viability of any prior extraction with a mineral operator in the area, Weinerberger UK Ltd, to ascertain whether the deposits represent viable quantities and type of mineral resources for the purpose of construction brick manufacture. If not exemption criterion 1 of Policy DM 7 could then be invoked and the presumption to safeguard these mineral resources be overridden in this circumstance.*

*Kent County Council Ecology (14.07.22) – No Objection subject to biodiversity mitigation*  
*Protected Species and Biodiversity Net-gain*

*The following protected species were identified during the surveys as utilising the site:*

- Reptiles all three ‘common’ species, including an exceptional population of slowworms.
- Badgers - two outlier badger setts are present within scrub-covered field boundary banks.
- Bats At least six species of commuting/foraging bats (with a known roost close to the site).
- Nesting birds. Within the October 2022 technical note, our outstanding queries regarding reptile mitigation was sufficiently addressed and, in general, we are satisfied that all protected species considerations have been addressed for the construction phase of the development. However, we are disappointed to see that the retention/specific measures to safeguard the nationally scarce Annual BeardGrass will not be enacted. We remain unconvinced that this notable plant species can be retained on-site.

*KCC Ecology required full details of the proposed Biodiversity Net Gin calculations to satisfy themselves this would be met. They have now stated they are fully satisfied.*

*if planning permission is granted, we advise that a detailed Ecological Mitigation Strategy (EMS), a Construction and Environmental Management Plan (CEMP) and Landscape and Ecological management Plan are produced and secured via a condition if planning permission is granted. [Proposed below].*

### **Designated Sites**

*The proposed development site is within 250m of the Swale SPA, SSSI and Ramsar and, therefore, there is a need for the development to assess the impact on the designated sites for both operational and construction impacts. It has been acknowledged North Kent Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. A shadow HRA has also been submitted to allow the local authority to complete an appropriate assessment.*

### **10.12 Kent County Council Public Rights of Way (POW) Team (14.10.22)– No objection subject to PROW improvement**

*Public Footpath ZR189 is affected by the proposed development, and there are important routes (ZU16, ZU17 & ZU14) adjacent to and within the surrounding area for consideration which link to both local facilities, amenities and the wider PROW network. The existence of the Public Right of Way is a material consideration.*

*The KCC PROW and Access Service is keen to ensure that their interests are represented with respect to our statutory duty to protect and improve PROW in the County. The team is committed to working in partnership with Swale Borough Council to achieve the aims contained within the KCC Rights of Way Improvement Plan (ROWIP). This aims to provide a high-quality PROW network, which will support the Kent economy, provide sustainable travel choices, encourage active lifestyles and contribute to making Kent a great place to live, work and visit.*

*KCC PROW and Access Service have no objection to the application, however, request the following is met by condition:*

- A PROW scheme of management is submitted and approved by KCC PROW and Access, with detail of ZR189 alignment, status, width, surfacing, landscape, signage, access, suitable crossings (inc. detailed plans) / the applicant's intentions regarding all the Public Rights of Way affected by the site. This scheme should include timings with conditions to ensure that the PROW network is properly protected, and new provision is*

*made in a legal and timely manner. This to be approved prior to the commencement of any works, with the PROW improvements to be completed by first occupation.*

- The CEMP should include provision for managing the PROW network affected during construction, with details of any temporary closures and alternative routes provided, which will require PROW and Access Service approval within the required legal timeframe to ensure public user safety.*

### **Impact on Public Footpath**

*ZR189 Further to our positive engagement with Vectos on behalf of the applicant prior to the submission of this application, we welcome the intention to upgrade Public Footpath ZR189 to Public Bridleway, to give rights on foot, horseback and bicycle, by means of a Creation Agreement where the path is within the applicant's land ownership. ZR189 should be accommodated within an open green corridor and the route should be carefully designed so that the right of way is safe, secure and attractive to use. Both national policy and Kent Design guidelines clearly state that pedestrian, equestrian and cycle routes should be overlooked within open and welcoming environments, to prevent fear and intimidation. Planting should also be kept to an absolute minimum, to ensure there are clear lines of view from properties and publicly accessible open spaces. KCC PROW and Access Service will need to approve this proposal. ZR189 becomes ZU16 just outside the redline boundary, and routes onwards towards Sittingbourne centre, and a potential upgrade of this section is yet to be determined (not mentioned within this application but discussed with Vectos).*

### **PRoW network development**

*With regards to the PROW network located outside the development site boundary, providing good links to Sittingbourne town centre and facilities, it is noted that no mention is made of funding towards improvements. However, as the application references, the site is "a short walk, bus journey or cycle from Sittingbourne town centre".*

*We would therefore request that a Section 106 contribution is agreed to upgrade the surface and accessibility of Public Footpaths ZU16 and ZU17 as mitigation for the predicted increase in use by new residents:*

- 200m vegetation clearance - £12,000*
- 650m of surface repairs (stone with dust finish) - £58,000 Total: £70,500 to be index linked*

*Summary Public Footpath ZR189 passes through this application site and is directly affected by the proposal.*

*Thee KCC PRoW and Access Service welcomes engagement with the applicant to confirm and approve the path details and legal process to ensure a timely and legal upgrade, specification and possible diversion as detailed above. A PROW Scheme of Management is required for approval prior to any commencement of works. PROW to be included in the CEMP. Off-site developer contributions requested as mitigation for the predicted increase in use by new residents and commitment to the objectives of the Swale BC Local Plan.*

**10.13 Health and Safety Executive (20.06.22)– No Objection**

10.14 The Health and Safety Executive (HSE) is a statutory consultee for certain Consultation Distance of Major Hazard Sites/ developments within the pipelines. This consultation, which is for such a development and is within at least one Consultation Distance, has been considered using HSE's based on the details input on behalf of Mid Kent . planning advice web app, HSE's Advice: Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

**10.15 Kent Police (16.08.2022)– No Objection**

*We request a condition for this site to follow SBD Homes 2019 and SBD Commercial 2015 guidance to address designing out crime to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety and to meet our Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998.*

**10.16 NHS Kent and Medway (25.07.2022)– No objection subject to S106 contribution**

*NHS Kent and Medway has assessed the implications of this proposal on delivery of general practice services and is of the opinion that it will have a direct impact which will require mitigation through the payment of an appropriate financial contribution. In line with the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) (Regulation 122) requests for development contributions must comply with the three specific legal tests:*

*We have applied these tests in relation to this planning application and can confirm the following specific requirements.*

<b>Total Chargeable Units</b>	<b>Indicative Total Scheme</b>

<i>General Practice</i>	380	£328,320 = £864/unit	<i>Towards refurbishment, reconfiguration of Memorial Medical Centre and/or Green Porch Medical Partnership and/or towards new general practice premises for The Medic Care Practice in the area.</i>
			<i>Note that this is higher than items 1 and 2 on the agenda as three practices would need upgrading.</i>

*This proposal will generate approximately 912 new patient registrations when using an average occupancy of 2.4 people per dwelling. The proposed development falls within the current practice boundaries of The Medic Care Practice, Memorial Medical Centre and Green Porch Medical Partnership.*

*There is currently limited capacity within existing general practice premises to accommodate growth in this area. The need from this development, along with other new developments, will therefore need to be met through the creation of additional capacity in general practice premises.*

*Whilst it is not possible at this time to set out a specific premises project for this contribution we can confirm that based on the current practice boundaries we would expect the contribution to be utilised as set out above. Any premises plans will include the pooling of S106 contributions where appropriate.*

#### **10.17 Southern Water (20.07.2022– No objection**

*Please see the attached extract from Southern Water records showing the approximate position of water trunk main and distribution main within the development site. The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water, before the layout of the proposed development is finalised.*

- The 500 mm water trunk main and 315 mm water distribution main requires a clearance of 6 metres on either side of the water mains to protect it from construction works and to allow for future access for maintenance.

- No excavation, mounding or tree planting should be carried out within 6 metres of the external edge of the public water mains without consent from Southern Water.
- No new soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public water mains.
- All existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works.

#### **10.18 Mid Kent Environmental Health (18.07.2022) – No Objection subject to Suggested conditions**

##### *Contaminated Land*

*Environmental Health have reviewed Volume 2 Ch 11 of the Environmental Statement as requested, which is the section dedicated to land contamination. The chapter has correctly identified all relevant and current legislation, guidance, regulations and best practice relating to land contamination. It has identified past use of the site in line with our database, as well as any risks associated with the current agricultural use and fly tipped material on site, which includes ACM. The chapter concludes that development will be carried out with an appropriate CEMP, and a full site investigation to explore areas of backfilled land and what remediation might be appropriate in these areas, along with the exploration of any risks associated with ground gasses. In terms of human health, I am satisfied that this proposed development is viable in principle and will not cause undue environmental harm in terms of mobilisation or adverse effect on any contamination already present. I suggest the full Swale Contaminated Land Condition be recommended, excluding the Desk Study element of the condition as this has already been carried out, and to include an appropriate ground gas monitoring regime where relevant and appropriate sampling and remediation of any residual asbestos fibres within the soil matrix. I would also suggest that the Watching Brief condition also be recommended, in case of any localised contamination encountered during construction and after the remediation phase is complete, and that a robust CEMP be required prior to commencement of works. The EA will need to provide their comments in relation to controlled waters (site lies over a secondary aquifer).*

##### *Air Quality*

*Environmental Health have reviewed Volume 2 Ch 9 of the Environmental Statement (Chapter 9). The chapter has correctly identified all relevant and current legislation, guidance, regulations, and best practice relating to air quality. Strategic Traffic model data used has been scaled down for the year 2027 without emission factor added, for a*

*conservative approach which is acceptable. The cumulative impacts are unclear as the report suggests traffic data used is inclusive of consented development within Swale Strategic Transport Model. This transport data was recorded in 2018, therefore local plan allocation sites are included in the modelling, however other committed development sites not within the Local Plan may have not been included.*

*Action: Prior to approval can the applicant check with planning to ensure all other relevant committed development is included (not just those listed in the LP) and if they were not, I would recommend the assessment be amended to include all committed development. Volume 2 Appendix D2 of the ES provides technical details relative to the modelling approach which is acceptable. The ES advises receptors along St Paul's Street have not been included in the assessment, as it is anticipated traffic from this development would not use the road. However, it is possible vehicles will avoid accessing the A249 through the town along the A2 and Swale Way due to congestion or length of trip, thus could use the B2006 as it is a short and direct route to the A249. I would recommend the applicant provides additional information to support this and include receptors along the B2006 in assessment.*

*Action: Prior to approval, can the author for the AQ assessment provide evidence to support the advice given to exclude receptor sites along the B2006 and at St Paul's Street AQMA? Table 9.6 within the ES states that a damage cost calculation could not be made at this stage as the SBC transport data for 2038 is too conservation and that it should be completed for reserved matters. The damage cost calculation only takes into account the traffic flows from the development only; therefore, this data should be available at outline stage and should be completed prior approval. Impacts during the construction phase is considered within this chapter and provides acceptable recommendations for mitigation. These shall be included in the Construction Method Statement (conditioned below)*

*Action: Completion of the damage cost calculation prior to approval (related condition recommended): Noise Environmental Health have reviewed Volume 2 Ch 10 of the Environmental Statement. The chapter has correctly identified all relevant and current legislation, guidance, regulations, and best practice related to Noise and Vibration. Road, rail and commercial noise has been assessed.*

### *Noise*

*Section 10.6.30 states it is likely to be feasible to meet the BS 8233 and WHO guideline internal noise levels using the following practical design approach for the building facade: specific calculated assessment required of sound insulation for all elements of the building envelope: and an alternative means of ventilation should be designed capable of performing to the same acoustic specification as associated glazing to remove the need to ventilate the properties facing south towards the rail line using openable windows. The report also suggests a more detailed calculation of the internal*

*noise levels will be undertaken during detailed design stage to assist with the design of the building façade and ensure suitable internal noise levels are achieved. The likely impacts are assessed for the construction phase which some adverse impacts are identified receptors in the phases of development. With this includes recommendations for Best Practical Means mitigation which shall be include in a robust CEMP (Construction Method Statement - conditioned below). This shall include all those and addition mitigation measures recommended for Volume 2 Chapter 10 of the ES. I accept the findings within this chapter and that recommendations are considered satisfactory.*

## **11. BACKGROUND PAPERS AND PLANS**

11.1 The application is accompanied by a number of background papers and plans:

- *Site Location Plan Ref: 21.042.011.P1 26th September 2022*
- *Land Use Parameter Plan Ref: 21.042.0110.P1 26th September 2022*
- *Phasing Parameter Plan Ref: 21.042.0115.P2 26th September 2022*
- *Density Parameter Plan Ref: 21.042.0111.P1 26th September 2022*
- *Heights Parameter Plan Ref: 21.042.0112.P1 26th September 2022*
- *Open Space Parameter Plan Ref: 21.042.0113.P1 26th September 2022*
- *Road Hierarchy and Access Plan Ref: 21.042.0114.P2 26th September 2022*
- *Road Hierarchy and Access Plan (SNRR Option) Ref: 21.042.0134.P2 26th September 2022*
- *Illustrative Masterplan 26th September 2022*
- *Design and Access Statement 26th September 2022*
- *Design Guidance and Code Document 26th September 2022*

## **12. APPRAISAL**

12.1 The main considerations involved in the assessment of this application are:



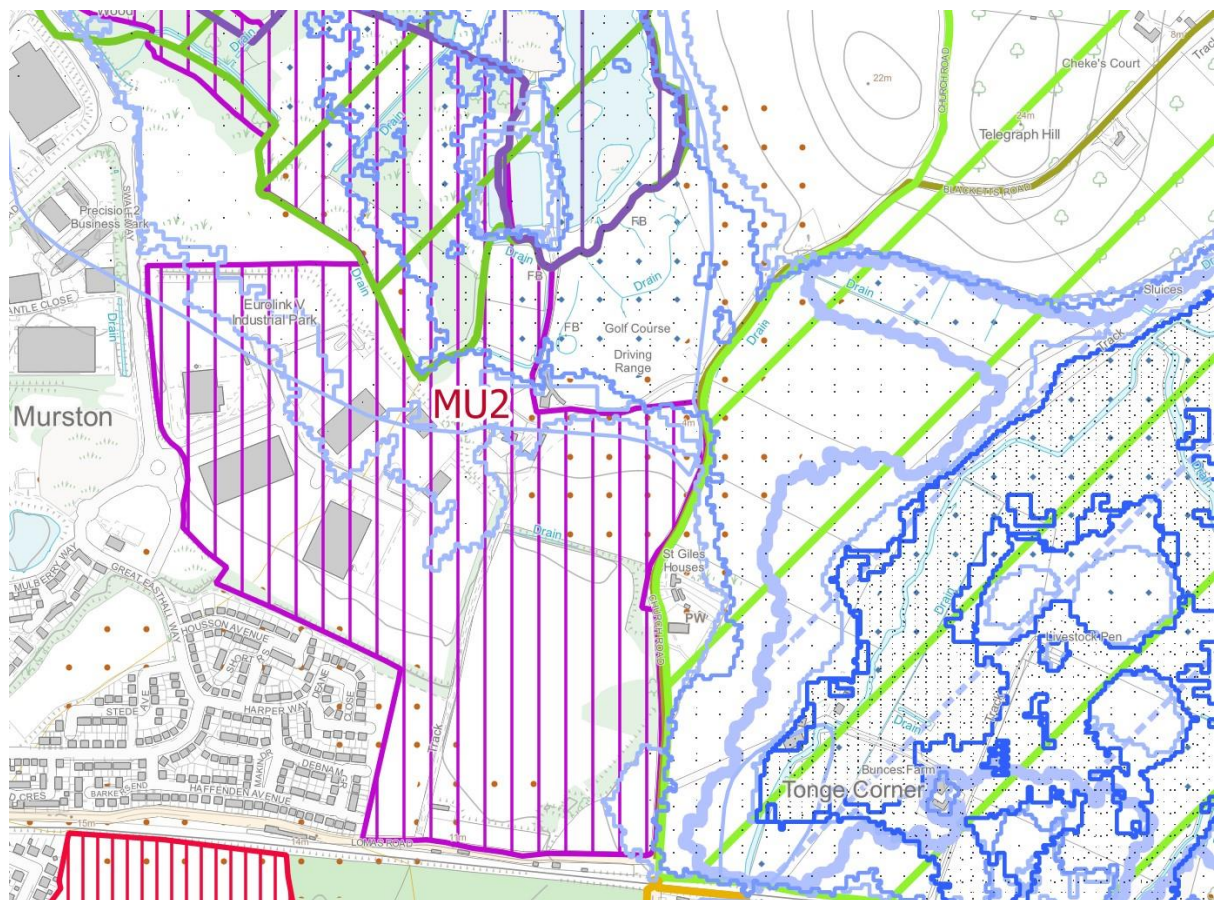
- a. The Principle of Development
- b. Provision of Housing
- c. Provision of Affordable Housing
- d. Access and Northern Relief Road Safeguarding
- e. Transport Impact and Parking
- f. Impact on Rural Roads
- g. Impact on Public Rights of Way
- h. Air Quality
- i. Impact on Heritage Assets
- j. Brickearth Safeguarding
- k. Landscape
- l. Design of Development
- m. Open Space Provision
- n. Noise
- o. Energy
- p. Flooding and Drainage
- q. Ecology and Biodiversity
- r. Trees<sup>[CW1]</sup><sub>[D2]</sub>
- s. Swale SPA Impact – Appropriate Assessment
- t. Impact on Social Infrastructure

**u. Other Issues**

**a) The Principle of Development**

**12.2** 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. 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. At this stage, the Council can demonstrate a 4.83 year supply of housing and as such the presumption in favour of sustainable development at paragraph 11d is engaged.

*Background to the Local Plan policy and allocation for the Site*



MU2 Adopted Local Site Allocation (light purple)

- 12.3 This site lies at the Murston/Tonge border at the far eastern edge of the urban area of Sittingbourne and forms most of the southern part of the MU2 adopted local plan allocation (land at North East Sittingbourne) in the Bearing Fruits allocation. A small part of the southern section of MU2 being covered by item 3 on this agenda (20/506066/OUT Storage Land At Lomas Road Bapchild Kent ME9 9BD ).
- 12.4 The Bearing Fruits local plan allowed for the eastern urban extension of Sittingbourne North and South of the Chatham main line railway and at the same time deleted the local gap policy north of the railway between Heron way and Church Road Tonge. The MU2 allocation being that part north of the railway line.
- 12.5 It also safeguarded the extension of Swale Way (the Northern Relief Road) from its current furthest extent at the roundabout for Great East Hall/Heron Way at the far western end of the site through the MU2, over the railway and through the A8 Stone Farm (now marketed as Spring Acres) site, then meeting the A2 at Fox Hill. The A2 Fox Hill Junction being designed to be adaptable to any future Northern relief Road, and similarly the design of the open space allowed for this.
- 12.6 A large section of the Northern Part of the MU2 has been granted consent as Eurolink V with a roundabout serving this and the Great East Hall/Heron Way housing estate. This left a large slither of undeveloped land between it and Heron Way intended as a future extension of a northern relief road. South of the railway the grant of land to Swale Borough Council as part of the Stones Farm development allowed for both open space development and certain alignments of a northern relief road) western and central options).
- 12.7 Why the Bearing Fruits local plan safeguard (policy AS1) rather than fixed an alignment for a Northern Relief Road is of importance. Swale Way was originally intended as a main distributor road serving the new industrial areas developed on the former brickfields of Murston. Later it evolved to a conceptual northern relief road, extending over the Swale via the Swale Bridge Crossing to the A249 at Keycol junction – now completed with improvements to the Keycol junction due to be completed by 2024. This was included in Kent Local Transport Plan 4 (LTP4). However, completion to the A2 was not agreed by KCC or SBC.
- 12.8 The reason for this was modelling prior to the Bearing Fruits Local Plan showed the transport case for this was now weaker with the planned DFT RIS 3 works to Junction 5 of the M2 and Housing Investment Fund (HIF) and RIS3 funded works to the key A249 junctions west of Sittingbourne, and hence they could not see it being funded by the public purse. (note at the time the approval and agreement of these schemes was uncertain, they are all now agreed and programmed) The case now was primarily that of improved environment (air quality on Sittingbourne centre and East Street AQMAS through diversion away of HGV traffic), reduction in rat-running traffic on Lomas Road,

regeneration of Sittingbourne Town Centre and in terms of any agreed enabling housing growth.

- 12.9 Also, KCC and Swale were not able to agree on a preferred route eastward of the Great East Hall/Eurolink IV roundabout with local opposition, particularly from residents of Heron Way, to noise from the western/central options which would flow the same alignment north of the railway north/south east of this estate. KCC noted however that the S106 for the Great East Hall/Eurolink V and Heron Ways consent included provision for the road and grant of land to KCC, so those purchasing properties should have been informed through conveying solicitors of these plans.
- 12.10 The third complicating reason was that traffic modelling for the local plan showed that a northern relief road without a southern relief road (that is a road connecting the A2 at Bapchild to the M2 south of the Kent Science Park) would cause severe issues on the A2 between Sittingbourne and junction 6 at Faversham (on the short A251), with traffic at Murston diverting along the A2 rather than using the A249 to access the M2, and then potentially creating backing up on the A251 linking the A2 to the M2 at junction 6.
- 12.11 As such the Bearing Fruits local plan entered its Examination in Public without a longterm transport strategy to mitigate the impacts of traffic over a full 15-year period. As
- such the inspector required main modifications which were agreed to firstly include a policy safeguarding Northern Relief Road routes (AS 1), secondly a review of the plan after 5 years, and thirdly to include whether to safeguard a southern relief road. The plan was adopted in 2017 and that 5-year period passed in July 2022.
- 12.12 Note also, on legal advice, resolutions to full council on the relief road(s) cannot be considered material. Section 17 of the Act as amended requires planning policy to be set out in a statutory plan; which is subject to consultation and binding examination. Caselaw confirms supplementary documents outside the local plan can only contain guidance not policy (*William Davis Ltd & Ors v Charnwood Borough Council* [2017] EWHC 3006 (Admin) (23 November 2017), *R (Skipton Properties Ltd) v Craven District Council* [2017] EWHC 534 (Admin)), *Great Portland Estates plc v Westminster City Council* 3 All ER 744 [1984], and even then, must be subject to consultation. The planning inspectorate at the recent Brookside Park appeal (APP/V2255/W/21/3274740) were very critical of applying resolutions to council which had not been subject to the formal local plan process or public consultation, and so gave it no weight.
- 12.13 Whilst it is fully legitimate to hold a position for or against planning policy changes in the future and on 'other material considerations' it would not be lawful or a material planning consideration not to apply planning policy in order to reduce housing provision in a hypothetical future local plan. This could also entangle the council in unnecessary

and difficult to defend legal action. Whilst immaterial threats or risk of judicial review should never deter the council from making correct and defensible decisions under planning law it is a legitimate avoidable risk to highlight to members when the potential of making an unlawful decision is suggested.

12.14 In these circumstances the advice, given the quasi-judicial nature of the planning system and 'play with a straight bat' determining the application against the adopted development plan and other material planning considerations in the manner set out by the act and national and local planning policy.

12.15 The application has been amended to not conflict with the adopted plan safeguarding of the SNRR, later phases would only go ahead if there was a future local plan dropping the safeguarding policy AS1 (see section d of this report). This application would not give outline consent for the SNRR in that it shows only the western access to this, not the eastern or southern access depending in route option), this means that members would not be predetermining the principle or route of any Sittingbourne Northern Relief Road. ). A regulation 19 draft local plan was agreed in 2022 that did not include either the Highsted Park sites or either relief road however the council did not contest a judicial review to this document and a new regulation (preferred option) document will not be proceed until later This is now a decision for the future and this recommendation seeks to protect that decision by members at that time. By law planning applications are determined against adopted plans and not against hypothetical future local plans.

12.16 The safeguarded land falls within Phases 3 and 4 of the proposals (as shown on the Phasing Plan) and it has been demonstrated that a road of relief road standards can fit into either Phase 3 and/or 4 with an appropriate landscape buffer to the housing (although note again, the application does not design a road).

12.17 The phasing of the site means that Phases 1 and 2 will come forward in first instance (up to 212 dwellings and commercial floorspace) and Phases 3 and 4 will only come forward should the requirement to safeguard land (Policy AS1) not be part of the Local Plan process.

#### *The North East Sittingbourne Local Plan Allocation (MU2)*

12.18 The supporting text to policy MU2 states:

*The key strength of this site is that it would form a natural extension to the established Eurolink industrial area and East Hall Farm housing estate, both of which are proven locations for development and can contribute significantly to their success by creating a mixed use sustainable community. Outline planning permission has been granted for the employment element of the allocation, but Policy MU2 is retained in order to guide future planning applications for the area....*

*Landscape evidence shows the area as being able to accommodate change, but an integrated landscape strategy will be required to lead development of the area. Given its location, there is significant potential to create open space and new habitats, which will serve the purpose of conserving and enhancing biodiversity and offsetting any impacts on European designated wildlife sites. Development proposals will need to reduce recreational disturbance on the SPA, by ensuring the provision of appropriate recreational and accessible natural greenspace opportunities on-site for use by residents and visitors. Such proposals will be subject to an HRA and where demonstrated as necessary to avoid likely significant effects on the SPA, a financial contribution towards wider management of recreational pressures on the North Kent Marshes will be sought. Given the amount of open space likely to be made available, it should be more than possible to achieve a net gain in biodiversity overall and meet a significant proportion of the town's needs for natural and semi-natural greenspace, alongside new allotments.*

12.19 As the application was submitted with a redline which excluded the 'Murston lakes' area within the MU2 allocation and without the 'integrated landscape strategy' as mentioned above it will be necessary to secure by condition/S106 the implementations of such a strategy which may also be necessary to secure biodiversity net gain requirements and to ensure diversionary recreational mitigation to ensure acceptable impact on the Swale and Medway special protection areas/National Network Sites (formally known as European protected sites).

12.20 The text goes on:

*The position of this site within open countryside requires strong design principles and provision of open space and landscaping to settle the development into the landscape as well as providing a healthy environment for future employees and residents. In particular, the development should look to 'close' the expansion of this part of the town in a fashion that achieves an attractive urban edge and successfully integrates it within the wider landscape....*

*The site has good access to the strategic road network and would be directly accessed from the roundabout on Swale Way, which connects to the A249 and motorway network beyond. A transport assessment will need to examine the detailed effects on this junction with the A249 where a need for improvements may arise. A network of footpath and cycle links will also need to integrate the sites with adjacent areas, including the National Cycle Route network and development will facilitate the extension of the bus network into the area.*

*Critical to the shape and timing of the development of the area is its relationship to the existing Sittingbourne Northern Relief Road (SNRR) and its proposed final stage linking to the A2 – the latter is identified as a safeguarding search area by Policy AS 1. Until a route for completion of the SNRR is finalised, it is important that development at*

*northeast Sittingbourne does not prejudice its future implementation. If housing proposals were to come forward early, they will need to demonstrate that land has been reserved to enable all reasonable potential route options to be fully considered, as well as determining, via the Transport Assessment, whether a contribution toward the provision of the road will be required....*

*Community facilities will be required and shall include those within the Local Plan Implementation and Delivery Schedule. These shall include contributions to the expansion of primary school provision at Murston and community learning and skills and youth services at Sittingbourne. Contributions to the expansion of GP health services at Sittingbourne will also be required.*

12.21 The policy includes a concept diagram on p.173 of the local plan that sets out the expected broad location of the various uses and helpfully includes the safeguarding area of search corridor for the Sittingbourne Northern Relief Road route, as identified by Policy AS1 Safeguarded area of search: Sittingbourne Northern Relief Road.

12.22 Employment, housing and strategic open space and landscaping are the principal uses the policy supports and seeks to deliver in this location along with the final section of the Sittingbourne Northern Relief Road (NRR). Planning consent 15-510589-OUT for Eurolink phase V has delivered the employment component of MU2 and a landscaped area north of Eurolink V was delivered as part of planning application which achieved a level of mitigation required by Policy MU2. The employment element has now been built out along with a roundabout on Swale Way that would provide a new access east/west to the application site.

12.23 The residential element is for “approximately 106 dwellings” and indicated in the 'Development Concept' diagram in the south-west corner in two distinct parcels due to the need to take account of routing of the final section of the Sittingbourne Northern Relief Road. This concept diagram is indicative and illustrates at concept level how development in line with the policy could be achieved.

#### *MU2 - Level of Development*

12.24 The policy states in terms of quantum of development.

*Planning permission will be granted for mixed use development comprising 43,000 sq m of 'B' use class employment uses, approximately 106 dwellings, together with 31.1 ha of open space, flooding, biodiversity and landscape enhancements on land in North-East Sittingbourne as shown on the Proposals Map.[the MU2 defined area]*

12.25 Local Plan allocations MU2 and MU4-MU6 use the term 'approximately', MU1, MU3 and MU7 use 'minimum'. The precise wording is deliberate and reflect uncertainties

over site capacity that needed to be resolved at application stage. On the MU4 Teynham site more units have been permitted than allocated, on the MU5 Love Lane Faversham site less units on a smaller site. At the MU3 Wisers Lane SE Sittingbourne site (which used the term minimum) more were permitted by the Secretary of State on a recovered appeal (where there was a partial award of costs against the Council). This illustrates that the capacity in the local plan have not been treated rigidly.

12.26 Also at the Wisers lane appeal (where partial award of costs was made against the council) the additional number of units (91) attracted significant weight in terms of planning balance. Members have also been keen on allocated sites to increase densities where possible in order to conserve green field sites in the forthcoming revised local plan. The variation proposed here is greater than other schemes however this reflects the unique site-specific issue here relating to the relief road and setting of heritage assets.

12.27 The precise wording is important. It states planning permission will be awarded for 'approximately 106 dwellings' it does not state that planning permission will be refused for a greater number of units. At Bating fruits Main modifications the wording was changed from 'minimum' to 'approximately' to account for the uncertainty over the impact of the road.

12.28 Whether or not a scheme is compliant with policy MU2 and other development plan policies requires an assessment against the specific clauses of policy allocation MU2. The following sections of the assessment assess the compliance of the scheme against these specific requirements.

12.29 This interpretation of the wording, that a policy stating permission will be granted for a specific number of units does not make a different quantum non-policy compliant, is

that universally taken by the planning inspectorate in interpreting local plans. Here the principle established in Court of Appeal judgment in Cornwall Council v Corbett (2020) applies

*"[N]owhere is it stated, or implied, that any conflict with [the] Policy will necessarily lead to a proposal being found to be not in accordance with the development plan as a whole, or to a refusal of planning permission. And in my view there can be no justification for reading words into [the] Policy .. that are not there"* LJ Lindblom

#### *MU2 -Specific Policy Requirements*

12.30 The specific requirements of MU2 are as follows:

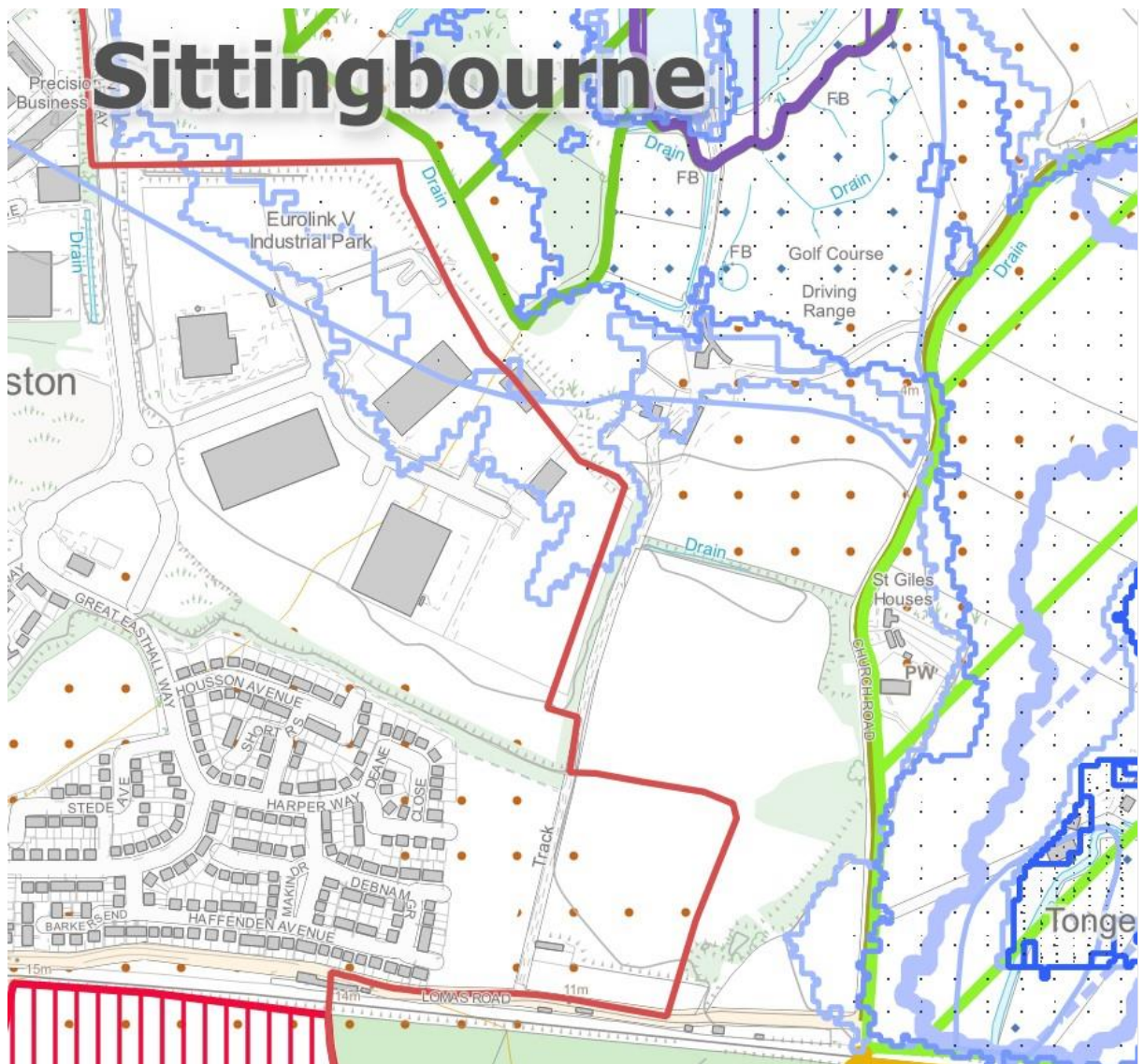


Development proposals will:

1. Achieve a mix of housing in accordance with Policy CP3, including provision for affordable housing in accordance with Policy DM8;
2. Through an integrated landscape strategy, achieve a net gain in biodiversity overall by making provision for significant levels of habitat creation, landscaping and open space to:
  - a. mitigate impacts upon and enhance the interests of the adjacent Special Protection Area and Area of High Landscape Value;
  - b. meet natural and semi natural greenspace needs at the town;
  - c. provide water attenuation;
  - d. allotments; and
  - e. successfully complete the long term expansion of the town within the wider landscape
3. Ensure that, through both on and off site measures, any significant adverse impacts on European sites through recreational pressure will be mitigated in accordance with Policies CP7 and DM28, including a financial contribution towards the Strategic Access Management and Monitoring Strategy;
4. Provide a financial contribution toward the improvement of existing sports pitch and formal play facilities;
5. Undertake a transport assessment and implement any highway and other transportation improvements arising from the proposed development;
6. Secure pedestrian and cycle links to existing and proposed residential and employment areas and adequate bus access to the site;
7. Ensure development does not prejudice the safeguarded future alignment of the Sittingbourne Northern Relief Road Bapchild section in accordance with Policy AS1 and make an appropriate contribution toward it, if required.

12.31 Subsequent sections of the planning assessment evaluate the compliance with these requirements. The assessment is that each of these would be met including some matters secure by condition and/or planning obligation.

*The Allocation and the Built Up Area Boundary*



*ST3 Built Up Area Boundary (red line)*

12.32 This sub-section looks at compliance with the plan spatial strategy as set out in policy ST3 of the Bearing Fruits local plan; this is not straightforward as the policy and proposals map are not entirely consistent in this area which creates issues of policy interpretation.

12.33 Many of the plan allocations, especially the larger MU sites, have allocated areas on the proposals maps (now known nationally as policies maps) larger the built-up area boundaries. The logic of line delineation seems to be that the built-up area boundary follows the anticipated line of built form, whilst the allocation includes areas of green infrastructure, noise bunds, site access etc. outside these areas.

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- 12.34 However, the policies map and the wording of policy ST3 are not consistent, and planning law requires that where there is an inconsistency the inconsistency should be resolved in favour of the written statement.
- 12.35 Policy ST3 sets out the plan spatial strategy, stepping down from development at towns, through villages then in the open countryside. The relevant Parts are as follows.
- 12.36 The first paragraph makes clear that the principle of use of previously development land and allocated sites spans across all of the settlement categories 1 through 5. Secondly the use of AND in the opening paragraph is important as it implies that firstly the plan strategy would be achieved by brownfield sites within the boundary, and secondly by implication of allocated greenfield sites including those outside them.
- 12.37 One possible reading of lamma 5 of the policy is that any area outside the built-up area boundaries is considered open countryside to which the much-restricted policy applies. Supporting paragraph 4.3.14 of the plan states:

*The line between consolidated areas of built development and open countryside may not always be clear cut and judgements on a case by case basis may sometimes need to be made. However, beyond the defined built up area boundaries, land and other settlements are regarded as being within the open countryside. Here, only development essential to the social, economic or environmental well-being, as set out by national and local planning policy, will be permitted, where consistent with the primary objective of protecting and, where required, enhancing the countryside.*

- 12.38 Even so, where a plan is out of date the NPPF indicates that this changes the appropriate decision clause in the NPPF from para 11 (a) – presumption in favour of the development plan, to 11 (d) presumption if favour of development (with exceptions, put simply). Footnote 8 to 11 (d) states this includes policies related to the provision of housing.
- 12.39 This is because the inspector of Bearing Fruits considered that without a transport strategy to cover the full 15 year plan period a review after 5 years is needed. The report stated.

*HE and KCCH have both confirmed that appropriate mitigation will allow the SRN and local highway network to accommodate the likely traffic impact of planned growth up to April 2022. This is consistent with government advice in the PPG which advises that Local Plans should make clear for at least the first 5 years of the Plan period what infrastructure is required, who is going to fund and provide it and how it relates to the anticipated rate and phasing of development. **The outstanding and unresolved issue in this case is the details of the***

***highway infrastructure required to support the planned development after the first five years of the Plan period. [My emphasis]***

*It is therefore clear that in order to allow this Plan to proceed to adoption it must include a commitment to an early review. ... Furthermore there is broad agreement that the transport infrastructure needed to support the development across the full Plan period can be provided. In these circumstances a commitment to an early review is a pragmatic and appropriate solution that will allow the Plan to be adopted.*

*An early review will allow work to be undertaken to model and agree mitigation schemes to support the development proposed beyond the forthcoming five year period.*

12.40 Policy ST2 of the local plan states:

*The Council will commit to undertaking a review of the Local Plan which will be programmed for adoption by April 2022.*

12.41 Caselaw indicates that where a plan is out of time this renders development boundaries 'out of date' as these are considered 'policies relating to the supply of housing' (footnote 8 NPPF). *Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant) (2017)*. This does not mean the whole plan is out of date, simply the 'policies relating to the supply of housing'.

12.42 Both when a plan is out of date generally, or through a shortage of housing land supply when the 'tilted balance' applies as here clause 11 (d), the presumption in favour of development applies, The difference being that when also the 'tilted balance' applies there is an additional weight given to meeting that shortfall in assessing the planning balance.

12.43 It should also be noted that the red line built-up area boundary is drawn very tightly here, such that it would be very difficult to get both 106 houses, and the SNRR within it, indeed the capacity figure seems to be calculated without consideration and the SNRR land take in the southern and/or eastern parts of the site. This implies that achievement of the allocation numbers requires some development outside of the built up area boundary

12.44 Officers conclude that the location of part of the site within the MU2 boundary but outside the ST3 built up area boundary for Sittingbourne and Murston is not fatal to local plan policy compliance of the scheme providing, as is accepted here, the full requirements of the plan, including policy ST3 for Sittingbourne and MU2 for this site are met, which they are assessed to be. Even so policy ST3 is considered out of date

because of the expiry of the time limit for plan review. Either way the conclusion in terms of recommendation is the same.

*Consideration of Principal of Development Overall Conclusions*

- 12.45 This report has argued that compliance with the local plan should be considered holistically in terms of the key policies, ST3 Settlement Strategy, ST4 Sittingbourne and MU2 the site allocation.
- 12.46 The key issue from the policy perspective relates to the proposed location and number of dwellings proposed by the application and whether or not these proposals are in conformity with these key policies. The policy itself refers to the provision of approximately 106 dwellings. The number proposed is up to 380, a significant increase. The site is in a sustainable location and forms part of a wider package of development including infrastructure that would benefit both new and existing communities. The provision of an element of commercial and community use (use classes E and F) would also comply with policy.
- 12.47 The additional dwellings are a result of a higher density and better use of land within the areas identified in the concept diagram, though one compatible with adjoining schemes such as the Great East Hall Estate and Stones Farm, and the additional area that sits outside the AS1 policy area.
- 12.48 The adopted local plan is now “out-of-date” but in officers view, considerable weight should be afforded to the relevant policies for urban expansion, particularly MU2. The site is in a sustainable location on the edge of the borough’s principal settlement with the full range of shops and services including employment opportunities. The Plans strategy in Policy ST3 is that this should be the principal focus of growth. Proposals include 450 sq. m of E/F floorspace that could further contribute to the sustainability credentials of the site, and with the proposed S106 would include safeguarding of links the site to the A2 towards Bapchild and Teynham and the shops and services located there.
- 12.49 The report concludes overall the requirements of the subheadings of allocation MU2 are met and the scheme has an acceptable landscape, heritage, biodiversity, open space and other impact.
- 12.50 Although the extent and number of dwelling are greater than the indicative scheme and the illustrative diagram, the view of the council’s urban design officer, who drew up the illustrative diagram in the local plan for this site, was that through evolution of the indicative masterplan for the site and formal parameter plans the key constraints on the footprint of housing had been carefully resolved, and with the conditions and S106 heads of terms proposed the principal of development on this site and with the

proposed number of units is established. The principal of the scheme is therefore compliant with the development plan and national planning policy. This strongly weighs in favour of the scheme in terms of planning balance.

12.51 It should be noted that if the Northern Relief Road goes ahead then the number of units would drop and this is made clear through a condition.

12.52 It should also be noted however that the MU2 allocation of the site was made on the assumption that the Northern Relief Road would go ahead, and the 'pass' the Bearing Fruits inspector gave for not having a transport strategy capable of supporting development at the Objective Assessment of Need level across the normal full plan 15 year lifespan. There has not been a local plan assessment of this scheme without a Northern Relief Road and the problems caused on Great East Hall/Herons Way through its non-completion are apparent in terms of resilience of the network, which would be worsened if the scheme were one way in and out at the end of the very extended Swale Way. It could not be guaranteed that any assessment of the scheme with such an access arrangement would be acceptable or if so what the acceptable level of development would be. This would require further work.

## **b) Provision of Housing**

12.53 At the time of writing, Swale's Housing Land Supply position is **4.83 years** (December 2022) which is for the monitoring year 2021/22 and includes a 5% buffer as expected to be determined by the HDT score for that monitoring year (see next paragraph).

12.54 The Council's 5-year land supply is derived using a calculation by which performance against the Government standard method for determining a Local Housing Need is recorded, together with the addition of an appropriate buffer as set out by the Council's score in the Government's HDT. Data for the calculation is obtained by the monitoring of developments within Use Class C3 (residential) and C2 (residential care).

12.55 Due to the LPBF 2017 being more than five years old, the NPPF requires the use of the Government standard method for calculating the Local Housing Need for the Council. For Swale, this means that the target will increase to 1,078 (or whatever the standard method figure is for that monitoring year). Assuming a 5% buffer, this means that from July 2022, the annual housing supply is assessed against an annualised figure of 1,132 dwellings per annum. ( $1,078 \times 5 \text{ plus } 5\% = 5,660$ ).

12.56 Prior to the introduction of the HDT in 2018, the Council had determined that a 5% buffer should be used through its Local Plan examination. However, paragraph 74c) and footnote 41 of the NPPF now requires the choice of buffer to be determined by the Council's performance against the HDT.

12.57 The Council anticipates a result of 108% against the Governments Housing Delivery Test (HDT) 2022 due to be published in early 2023, and this will enable the Council to choose to apply a 5% buffer to its 5-year housing land supply calculation.

12.58 The table below sets out the Councils 5-year housing land supply calculation in full. It shows that with a 5% buffer applied by the HDT results, the Council has **4.83 years** of deliverable sites within the 5-year period.

12.59 This change is in part due to: the Local Housing Need for the Borough now being determined by the Governments standard approach for all 5 years of the calculation; a pause on the Local Plan Review which was presenting a series of sites in addition to those covered in this position statement; and, an exceptionally high level of completions for the last monitoring year (34% higher than the previous three years average of completions<sup>1</sup>) that whilst positive for the housing delivery test, has also reduced the housing supply by around 300 dwellings more than anticipated.

#### The calculation of Swale Borough Councils 5-year housing land supply 2021/22 – 2025/26

<b>5-year housing requirement</b>	
a. Annual Local Housing Need Target (Government standard method)	<b>1,078</b>
b. Five-year housing land supply require (1078*5)	5,390
c. Plus the required buffer of 5% requirement (5,390 x 0.05)	270
<b>d. Total 5-year housing requirement</b>	<b>5,660</b>
<b>Housing land supply 01/04/21 to 31/03/26</b>	
e. Extant planning permissions	3,555

<sup>1</sup> HDT confirmed completions for Swale Borough Council: 674 2018-19, 767 2019-20 and 668 2020-21 (average 703 dwellings), Swale Borough Council monitored completions 1065 2021-22

f. Local Plan Allocations	1,047
g. Sites awaiting completion of S106	360
h. Windfalls	500

<b>i. Total Supply (e+f +g+h)</b>	<b>5,462</b>
<b>Five-year housing land supply position</b>	
<b>j. Total five-year housing land supply (i. 5,462/d. 5,660 x5)</b>	<b>4.83 years</b>
k. Shortfall in dwellings	-198

12.60 Paragraph 59 of the NPPF outlines that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed.

12.61 Paragraph 67 of the NPPF outlines that strategic policy-making authorities should have a clear understanding of the land available in their area, including identifying a sufficient supply and mix of sites. Paragraph 67 further states that planning policies should identify a supply of specific, deliverable sites for years one to five of the plan period.

12.62 The scheme would make a considerable contribution towards meeting housing needs in the borough in a location in accordance with the local plan policy ST2 and national policy, which weighs heavily in favour of the scheme in the planning balance.

12.63 The scheme would also contribute towards the infrastructure necessary to mitigate against traffic issues from housing growth in years 10-15 of the Bearing Fruits local plan (2026-2031) and the middle years of the emerging local plan, which helps solve the issues identified by the Bearing Fruits inspector in giving the plan an accelerated period for review. The infrastructure to provide for housing and employment growth also weighs heavily in favour of the scheme in the planning balance.



**c) Provision of Affordable Housing**

12.64 The NPPF establishes that the requirement for affordable housing provision should be reflected in planning policy. Paragraph 65 of the NPPF establishes that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership. This is consistent with policy DM8 of the Local Plan 2017, which requires the provision of 10% affordable housing in Sittingbourne.

12.65 In terms of policy DM8 the 10% requirement applies to Sittingbourne and urban extensions of which this is one.

12.66 Swale's Housing Register demonstrates a need for all types and sizes of accommodation for those in housing need in the Sittingbourne and Bapchild areas, including supported older persons housing and adapted homes.

12.67 During the negotiations on the application and in discussion with the Council's affordable housing manager an uplift an uplift to the affordable housing provision from 10% to 15% was proposed and agreed as well as a revised indicative dwelling mix as per below.

Property type	Affordable Dwellings	Of Which	
		25% first homes	75% social rent
1BF	7	TBA	TBA
2BF	12		
2BH	5		
3BH	21		
4BH	12		
<b>TOTAL</b>	<b>57</b>	<b>14</b>	<b>43</b>

12.68 A breakdown of affordable housing by Phase is provided below, which includes a 15%affordable housing contribution across the development.

Phase	Market	Affordable	TOTAL
1	121	13	134
2	59	19	78
3	88	15	103
4	55	10	65
<b>TOTAL</b>	<b>323</b>	<b>57</b>	<b>380</b>

12.69 The affordable homes are proposed to be integrated within the development and not visually distinguishable from the market housing. This will be finalised through subsequent reserved matters applications.

12.70 This mix is acceptable to the Affordable Housing Manager, who recommends that at least recommend that at least 5 of these be provided to Part M4(3) standard. The remaining homes should be provided as Part M4(2) standard (accessible and adaptable dwellings). This would be secured by condition.

12.71 This meets the requirement of policy DM8 and weighs in favour of the scheme in the planning balance. The 5% provision in excess of the requirements of policy DM8 also weighs in favour of the proposal.

**d) Access and Northern Relief Road Safeguarding**

12.72 Primary access is sought via the existing Great Easthall Way / Swale Way /Eurolink V roundabout at the north western of the site, whilst a secondary access could be provided via Church Road for the 6 residential units located on the south western area of the site (as shown on the Road Hierarchy and Access Parameter Plan - 21.042.0114.P2).

12.73 Further access points also proposed via the existing Heron Way development at Halfenden Lane Deane Close. This report concludes that because of their unadopted nature and risk of 'rat running' these access points should be bollared and restricted to pedestrian and cycle access only.

12.74 Two road hierarchy and access parameter plans were submitted due to the local plan requirement to safeguard Phases 3 and 4 for the SNRR and to demonstrate how either scenario could come forward on site. These Plans are the Road Hierarchy and Access Parameter Plan (SNRR Option) (Drawing Reference: 21.042.0134.P2) and Road Hierarchy and Access Parameter Plan (up to 380 units) (Drawing Reference: 21.042.0114.P2). Both Plans are the same, apart from the SNRR Option removing the road hierarchy for Phases 3 and 4.

12.75 MU2.7 states:

*“development proposals will ensure development does not prejudice the safeguarded future alignment of the Sittingbourne Northern Relief Road Bapchild section in accordance with Policy AS1 and make an appropriate contribution toward it, if required”.*

12.76 Policy As 1 states:

***Safeguarded area of search: Sittingbourne Northern Relief Road - The A2 link. The area shown on the Proposals Map forms an 'Area of Search', within which a safeguarded route for the completion of the Sittingbourne Northern Relief Road to the A2 will be determined and allocated via Local Plan Review, or should earlier need and timing dictate, the preparation of a Development Plan Document (DPD). Development proposals likely to reduce or remove the consideration of route options or preclude achievement of the road will not be permitted.***

In determining its route, environmental mitigation issues associated with the route will be addressed, including the impact of the new road on the traffic flows and living environments along the A2 corridor to the east of Sittingbourne.



### AS1 Sittingbourne Northern Relief Road Safeguarding

12.77 The supporting text of the policy states:

*The Sittingbourne Northern Relief Road (SNRR) was originally conceived as a link between the A2 to the east of the town and the A249 in the west, able to provide new links into the town's commercial areas and to free road space in the streets around the centre. Phases of the road were completed over a 10 year period from the A249 through to new developments at East Hall farm in the north east of the town, leaving the link to the A2 incomplete. The Milton Creek section [bridging over the Swale] was completed in November 2011.*

*The development strategy of the Local Plan focuses new development at the main urban area of Sittingbourne, with allocations at north west and north east Sittingbourne and major regeneration development in central Sittingbourne at an advancing stage of preparation. There are also major new commitments for employment uses along the route of the SNRR at Grovehurst, Kemsley and Eurolink Phase 5. These make use of spare capacity on the A249 and the completed sections of the SNRR. Completion of the road to the A2 in the Bapchild area will realise the full benefits of the road, further relieving the town centre of traffic, opening up development opportunities and maximising the benefits of proposals for regeneration, traffic management and calming in the centre of the town. Completion also brings other environmental benefits, notably the Canterbury Road section of the A2 between the town centre and east of the town will benefit from reduced congestion at peak times and improved air quality within the section declared as an Air Quality Management Area.*

*High level transport modelling has demonstrated the value of completing the SNRR as outlined above, although the provision of the road is not imperative in traffic terms to deliver the development targets as proposed in the Local Plan. More detailed transport impact assessments for development proposals in the town centre and elsewhere may*

*indicate that the current improved economic growth context could alter this situation. It is therefore important to maintain the commitment to finalising the route of the final section of the road and to ensure its inclusion in appropriate transport programmes and funding bids, as well as allowing it to attract developer funding. In the longer term a precise alignment can be considered as part of a local plan review where its role can be further considered alongside any potential for a Sittingbourne Southern Relief Road between the A2 and M2 east of Sittingbourne.*

*Local public consultation was carried out by Kent Highways in 2010 on a single route crossing the railway and then either going straight to the A2 to the west of the village [The Western option], or sweeping around the north of Bapchild to join the A2 east of the village [The Central Option, there was also a more easterly options going across Church Road before heading south across the railway known as the Northern Option}. The outcome of this consultation was inconclusive in term of route preference (although the most easterly route presents the most costly of those considered).*

*The SNRR could, with appropriate funding, be delivered within the plan period and will support local growth, however, it will not be required to support the growth planned for the first five years of the Local Plan period and probably longer. The scheme is already identified in Kent County Council's Local Transport Strategy for Swale and its transport delivery programme, although to date it has not been supported by funding from the Local Economic Partnership. As a preferred route has not yet been agreed, this Local Plan identifies a safeguarded 'Area of Search' on the Proposals Map, which reflects the area covered by reasonable options tested in the 2010 consultation. Within this area of search, the route of the road will 6 Land allocations for new development be sought and allocated either by a separate Development Plan Document (DPD) if need and timing dictates, or, most likely, through Local Plan Review. These mechanisms will determine the detail of the route and the appraisal and mitigation of impacts, including the area impacted by the chosen route itself and any potential for impacts on traffic flows and living environments on the A2 corridor east of Sittingbourne. The latter may require traffic management solutions in the settlements most affected. The evidence base for the route will include and review the design and consultation work carried out by Kent Highways in 2010 and work on this is expected to proceed in collaboration with the highway authority.*

*The proximity of the area of search to the Swale SPA/Ramsar site will need to be borne in mind in any decision on route location with reference to the mitigation of impacts in accordance with policy DM28 and the Habitats Regulations.*

*The 'Area of Search' incorporates land which is allocated for mixed use under the allocation for north east Sittingbourne in Policy MU 2. However, the area proposed for residential use is not envisaged as coming forward before decisions about the road alignment have been resolved. South of the railway, Policy A 8 allocates land at Stones Farm for housing and open space. These are likely to come forward within a much shorter timescale than the road proposals and will not narrow the scope for route options to be considered. Between the railway and the A2, Policy A8 proposes some 15 ha of proposed public open space within the proposed 'Area of Search'. This will continue to allow for the widest consideration of route options possible, whilst enabling appropriate weight to be given to such matters as the need for adequate open space and settlement separation between Sittingbourne and Bapchild, as proposed by Policy DM25.*

*Additionally, both policies MU2 and A8 require regard to be given to the need to provide for the road corridor.*

*Across the 'Area of Search', developments likely to reduce or remove the consideration of route options or preclude achievement of the road between the current end of Swale Way and the A2 will not be permitted in advance of the allocation of a precise route. Funding towards provision for the road will be sought from suitable sources of public and developer funding.*

- 12.78 The Sittingbourne Northern Relief Road (SNRR) is identified as a local priority in the KCC Local Transport Plan (LTP4, July 2017) but refinement of route options is not complete and funding to deliver it is not fully in place. Kent County Council however expects to be able to recycle Housing Infrastructure Fund loans towards the scheme. This works as follows, housing schemes contribute towards S106 funding such as new roads and junction upgrades, developers secure loans at preferential rates towards development finance, and then such loans are repaid over time and the receipts recycled towards new loans. Applied here this could work by phasing the northern relief road work into two parts, the first part being the link from the Great East Hall/Eurolink roundabout to this site, then the second phase being towards the A2 and over the railway line by whatever route option is chosen. The first phase would not be predetermination of whether a route would later form a relief road link, it would be simply a site access and safeguarding of the relief road corridor. The principle of whether to complete the last segment of the relief road being part of the local plan process.
- 12.79 The opposition of the administration to HIF bids for sites north and North West of Sittingbourne is noted. However, Kent County Council applied by itself and granted itself permission for the relevant work (or National Highways did under development consent orders). It is therefore necessary therefore to look at the issue of the use of recycled HIF receipts afresh and pragmatically in terms of its potential to resolve infrastructure bottlenecks.
- 12.80 Initially the applicants proposed a scheme that sterilised the whole of the area safeguarded under policy AS1 (map below). The local plan review had not kept pace with the timetable set by the Bearing Fruits Inspector leading to speculative applications either to deliver or not deliver the Northern Relief Road.
- 12.81 Subsequently the applicants were informed by officers that a scheme contrary to policy AS 1 would be recommended for refusal as not being policy compliant. Following this the applicants agreed to the principle of a s106 planning obligation that would secure works to enable a future roundabout junction for the Northern Relief Road and later
- phases on land covered by the AS1 safeguarding only able to go ahead if, and only if, that safeguarding were to be dropped in a subsequent local plan review.
- 12.82 The pertinent material issue before members is not whether the Northern Relief Road should go ahead but whether the Policy AS1 safeguarding for the road should be respected so that, as intended, whether and where the build the SNRR is an issue to be decided in the forthcoming local plan review following consultation and the democratic process of the whole council.

- 12.83 Failure to uphold the local plan would undermine the local plan strategy for securing infrastructure alongside new development and prevent future local plans from mitigating the considerable traffic problems from the poor connectivity of the eastern side of Sittingbourne to the strategic road network; and areas north of the Chatham Main Line from connecting to the A2 and Sittingbourne Town Centre. This poor connectivity unnecessarily diverts westbound traffic trying to access the A249 and M2 through Sittingbourne Town centre and as can be seen from the consultation responses results in a loss of resilience in the Swale Way access to Great East Hall/Heron Way and this application site. This 'end of a long cul-de-sac' problem would be exacerbated if this application were to be permitted as a one-way in one-way out road without safeguarding potential for access to the A2.
- 12.84 As stated in the covering report this application needs to be decided against current local plan policy and evolution of that policy being a matter for the emerging local plan. The benefits and disbenefits of safeguarding are however 'other material considerations'. KCC have advised the safeguarding extent is appropriate.
- 12.85 The continuation of a degree of uncertainty and blight regarding the safeguarding is material however these are considered to be weak given that the safeguarding policy has not deterred applications for Stones Farm and West of Church Road coming forward, and in officer's views are far outweighed in the planning balance by the disbenefits that would occur were safeguarding to be dropped.
- 12.86 Since the Bearing Fruits examination there have been several factors which have firmed up and clarified the case for continuing safeguarding. The first is the positive decision by the SoS on the M2 Junction 5 DC) and KCC granting permission for the Key Street and Keycol A249 junction improvements, as well as the programming of each of these interventions to complete by end of 2024-2025 and the consequential lifting of direction of Grampian Conditions on sites going forward (including this one) which will unlock considerable housing completions around Iwade and on MU1 West of Sittingbourne sites. This is material for three reasons. Firstly it removes uncertainty over future infrastructure, secondly the growth will place further pressure on the rest of the Sittingbourne transport network including Swale Way, and finally it will produce considerable HIF recycled receipts.
- 12.87 As part of the local plan review KCC and SBC have worked jointly on a review of the case for and against the SNRR. They have also run sensitivity tests in the Swale Traffic model with and without a SNRR. This work is ongoing and the primary recommendations are a matter for the emerging local plan, though some early clear findings are material to this application. It is stressed again that the material issue for this application is to safeguard the SNRR under the Bearing fruits local plan not to make a decision on it. It is too soon to say which alignment option would be preferred to suffice the application safeguards sufficient land to accommodate all reasonable potential route options, should it be required.
- 12.88 The first is that a link over the railway would have major benefits for cycle and pedestrian connectivity and relieve traffic on Lomas Road improving pedestrian and cycle safety, especially as it is part of National Cycle route 1. The second is a local road only link (as suggested by one member) is impractical given the demand for HGV movements

as well as noise and disturbance from putting strategic level movements through a local grade road. Finally and most importantly a SNRR connection would greatly improve the sustainability of bus services and local services in the Western Sittingbourne urban extensions as it would enable the two bus services serving the area to be combined into one loop service serving both the north of and south of railway halves. It would also enable residents of Stones Farm, Bapchild and along the A2 to access the local services proposed as part of this application site.

- 12.89 It is too soon to say which alignment option would be preferred suffice to say the northern option is most costly and the central option both would have unacceptable heritage impacts on Tonge Conservation Area and two areas of open space, and force an alignment option for any possible southern relief road which is most harmful in environmental terms (cutting across two dry valleys in an area of great landscape importance) which may outweigh the noise and environmental benefits of relieving A2 traffic through Bapchild. Although all three options have negative heritage impacts (whether the Grade I Bapchild Church, Grade I Tonge Church, Tonge Conservation Area, Grade II \*Bexs Farm etc. etc. depending on which option), it is a question of balance and whether the positive benefits outweigh any residual harm on heritage impacts and their setting. This leaves the western option as the emerging favoured option. In terms of its specific alignment it is a careful balance of mitigating noise impact on the Eden Way estate and avoiding an alignment which segregates the new Stones Farm open space. The applicant has been requested to show an indicative alignment to the railway line for the western/central option (both of which share an alignment north of the railway), and include a phasing plan which would allow an alignment of a northern option SNRR heading eastwards not southwards towards the Southern end of Church Lane in order to minimise impacts on the Grade I listed Tonge Church and to the East the Grade II\* listed Bex Farm.
- 12.90 This leaves the problem of how to mitigate the problems of building a SNRR without a Sittingbourne Southern Relief Road (SSRR) as referred to earlier in this section. One possible solution could be to build a bus gate before the bridge over the railway, or alternatively a no left turn restriction at the junction to the A2 (either HGV only for all vehicles), the specific solution depending on traffic assessment as part of any planning application for a SNRR final section. Though these restrictions would weaken the economic case for the SNRR they do remove the highly damaging impacts of northern to eastern movements diverting to the A2 from the M2/A249 and would either be a temporary solution (if members in future safeguarding a SSRR route) or permanent one.
- 12.91 This is considered to be a pragmatic solution to the complex and difficult issues surrounding the relief road. It doesn't make a decision one way or another whether the SNRR should be built, merely, in line with the adopted local plan, the inspectors conclusions and LTP4 allows for consideration of the case for and against the road. This would be secured through the developers extending the SNRR/Swale way eastwards from the Eurolink phase IV roundabout to the residential site entrance and then dedicating land to the south and east of this point to complete the SNRR and associated bridge. This would include a financial contribution towards the design and construction of this with the highways authority constructing the bridge as this avoids any 'ransom strip' which would affect site viability and associated provision of affordable housing.



- 12.92 If this recommendation were not accepted, then this application would have to be advertised under the consultation direction and thereafter the Secretary of State would be given 21 days to have the opportunity to call the application in. It is very likely that those proposing to build the SNRR privately as part of the planning application (Highsted Park West of Teynham) would call for this and if not called in there is a risk of judicial review. It would be difficult for officers to defend such a decision given the strong evidence that the SNRR safeguarding should continue to be respected and evidence of the harm that this would cause to transport impacts from housing growth in the latter years of the current local plan and across the period of the emerging local plan. It would foreclose decisions, without consultation or evidence before members, that should be taken as part of that process.
- 12.93 With the proposed conditions and S106 securing the safeguarding of the SNRR and completing a large new section of Swale Way the application is considered to comply with local plan policy AS1 and this counts strongly in favour of the scheme in the planning balance. Were these not to be safeguarded or secured it would count strongly against the scheme.
- 12.94 Were the SNRR to go ahead it would use part of the site area, and so a condition would reduce the capacity of the site in this event, by either 103 or 65 respectively depending on whether the Western/Central or Northern alignment option is chosen.
- 12.95 A number of objections refer to the proposed access points on Dean Close and Haffenden Avenue on the Heron Way development stating they are substandard unadopted roads unsuitable for through traffic. Pedestrian links was left to the eastern site boundary fence at both points so that if the SNRR were built there would be through pedestrian and cycle through routes for residents of Heron Way/Great East Hall to go directly southwards to the A2 and not have to go northwards first via Swale Way. This is still considered important and also it would enable residents of this proposal to more easily access Lakeside community centre and more directly travel to Sittingbourne town centre by foot or cycle without the extended distances via Swale Way. Similarly, a pedestrian/cycle/emergency service only gated or bollarded access is proposed between the main site and the 6 proposed units accessed off Church Lane. The form of this access control would be secured by condition.

## **e) Transport Impact and Parking**

### *NPPF Context*

12.96 Paragraph 110 of the NPPF states that:

“In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- Appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- Safe and suitable access to the site can be achieved for all users; and,

— Any significant impacts from the development on the transport network (in terms of capacity

and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.”

12.97 Furthermore, paragraph 111 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.”*

#### *Wider Network*

12.98 A number of junctions on the A2 corridor have been identified by KCC and National Highways (formally Highways England) as requiring capacity enhancements to cater for the housing and employment growth allocated in the county. Of particular relevance, these include an upgraded and grade-separated junction 5 at the A249 / M2 junction

12.99 Further improvements are proposed at the A249 / B2005 (Grovehurst) junction. The scheme includes replacing the existing junction with a two-bridge flyover and removing the current roundabouts and constructing an additional bridge to create a loop over the A249. The scheme has been fully funded through a Housing Infrastructure Fund Grant. 12.100 These schemes are included in the Swale traffic model used in the assessment.

12.101 Kent County Council has requested contributions to three road improvement schemes in east Sittingbourne on the basis of the traffic model, and in light of the proposed s106 agreement has no objection to the scheme.

#### *Trip Generation*

12.102 The Transport Assessment sets out that the review of likely trip generation for the Proposed Development based on up to 380 dwellings indicates it could, under a worstcase scenario, generate approximately 280 and 250 additional vehicle trips during the morning and evening peak hours respectively.

#### *Congestion*

12.103 *The impact on junction operation can be split into impact on junctions forming part of the strategic road network and impact on locally assessed junctions.*

12.104 With regards to the A249/Swale Way Grovehurst junction It is accepted that the proposed development will add additional traffic to the junction in the order of 128 and 115 vehicles in the AM and PM peaks respectively. The forecast number of traffic movements using this junction in 2037 in the AM peak hour is 3,530, and 4,009 in the PM peak (excluding mainline traffic movements) giving a percentage increase in traffic as a result of the current proposal of 3.6% and 2.9% in the AM and PM peaks.

Following the improvements on going to this junction KCC and national highways have no objection as this will be within the operational capacity of the extended junction.

12.105 Net traffic increases of 34 vehicles in the morning peak and 30 in the evening peak are forecast at the junction of the M2 and A249 (M2 Junction 5). Increases of this magnitude are considered to be de-minimus in the context of the current situation.

12.106 The traffic modelling suggests that the junctions that comprise the study network would be subject to small reductions in spare operational capacity as a result of the development proposals. In this regard, it is considered that even when considering a worst-case scenario, the development would not have a material impact upon the adjoining highway network, let alone the 'severe' impact that is referred to in the NPPF Para 111. This conclusion is accepted by your officers and Kent County Council.

### *Road Safety*

12.107 The transport assessment confirms that 5 incidents in 5 years have occurred along the section of Swale Way, to the east and south of Church Road. Given that it has been shown that the increases in traffic along Swale Way are expected to have a negligible effect to driver delay, pedestrian amenity, severance and fear and intimidation, it is considered that the Proposed Development will not result in conditions that would see any material change to the likelihood of accidents occurring in the future.

*12.108 Moreover, it should be noted that Swale Way is a relatively new road in the wider context of the Sittingbourne area and will have been designed in accordance with best practice design standards and guidance. In this regard, the incidents recorded between 2017 and 2021 are likely to be attributed to road user error, as opposed to any inherent safety faults associated with the road (i.e. junction visibility, road alignment, location of pedestrian / crossing points, etc).*

### *Parking*

12.109 Local Plan Policy CP2 'Vehicle parking' states that car parking standards for residential development, will. take into account the type, size and mix of dwellings and the need for visitor parking; and provide design advice to ensure efficient and attractive layout of development whilst ensuring that appropriate provision for vehicle parking is integrated within it.'

12.110 The current adopted parking standards are set out in the Swale Borough Council Parking Standards SPD (May 2020). The SPD outlines 'advisory' standards for more accessible locations with recommended' standards provided for more rural locations. As the site is well located with regard to a range of amenities and public transport opportunities, it is considered that the 'suburban' area standards are most applicable and this is accepted by SBC and KCC.

12.111 Cycle parking standards are based on dwelling type. The standards note that provision should generally be provided within the curtilage of the dwelling. If cycle parking cannot be provided within the curtilage of the dwelling, a secure communal facility should be provided.

12.112 Since June 2022 Electric Vehicle charging and parking is provided for via the building regulations rather than planning.

#### *Pedestrian and Cycle Connectivity and Facilities*

12.113 As required by point 6. of Policy MU2, secure pedestrian and cycle routes between the site and surrounding areas are secured.

12.114 Lomas Road and Church Road, to the south and east of the site respectively, form onroad sections of National Cycle Network (NCN) route 1. Route 1 comprises a longdistance signed route between Dover and Scotland, locally the route serves Faversham to the east and Sittingbourne and Kemsley to the west. This would be accessed via the pedestrian/cycling/emergency services only link to through to Church Road

12.115 The site is well located with regard to the Public Right of Way (PRoW) network, in particular, a public footpath ZR189operates through the site connecting to employment opportunities to the northwest at the Eurolink Industrial Estate.

12.116 In addition, footways are provided on other local routes, including Deane Close and Debnam Grove creating opportunities to provide pedestrian links towards local shops and services. A pedestrian and cycle only link would be provided to Church Road at Tonge Church to enable residents to access the Church and rural lane.

#### *Bus Connectivity*

12.117 Local bus stops are provided on Oak Road, approximately 950 metres to the west of the site, and can be accessed via local footways within the existing East Hall Farm estate, assuming Chalkwell takes over as planned this route from Arriva. The stops are served by Service 349 operating every 30 minutes between Sittingbourne and Murston. The service can be used to access Sittingbourne town centre and station in 12 minutes, taking total journey time to approximately 23 minutes when including a walk to the bus stop.

12.118 There is a bus-only link at Great Easthall Way (Great Easthall Way Bus Gate) which has been designed to allow buses to connect from Oak Road, along Great Easthall

Way, as far as the roundabout on Swale Way at its junction with Great Easthall Way and Eurolink V. The bus gate consists of a single vehicle width traffic lane controlled by traffic signals which include bus detection allowing buses only to connect directly between adjacent areas of housing without being delayed by general traffic. However, the continued use of the bus gate by general traffic led to its closure.

12.119 Discussions have taken place with KCC regarding a proposed public transport strategy for the site. It is agreed at this stage that the most practical solution would therefore be for site to be served by an extended 349 Service There are existing bus stops on Great Easthall Way close to the roundabout and the site entrance, therefore the bus service could terminate to this point, but much more preferable would be for the service to continue into the site and the access parameter plan has been amended so that it can

loop through the site. If the SNRR were build it could continue over the railway and also serve Stones Farm and Fox Hill.

12.120 It is agreed that an extension of any existing bus services may require additional revenue support which could be secured through a S106 obligation. continuing through the bus gate, along Great Easthall Way to the roundabout at Swale Way. The cost would be contributions of £150,000 per annum for four years. This is especially important given the precariousness of the viability of the route given Arrivas's abandonment of it. KCC have stated that if Chalkwells consider the route unviable then any subsidised service would only have half (i.e. hourly) frequency. The additional population from this application would add to the farebox of this route and help secure its viability, as would a potential SNRR to south of the railway whereby one loop service would service all of the eastern suburbs of Sittingbourne. The proposed head of term would involve capital contribution towards a new bus and revenue support for four years to allow for construction of the extension of Swale Way and construction of the first phase and bus loop within the site. This is proposed as one lump sum payable for the first phase to front load the service.

12.121 The nature of any future provision of a bus service to the site may ultimately be dependent upon the Highway Authority's ability to re-open and enforce the bus gate at Great Easthall Way.

12.122 KCC are intending to use new powers, soon to be approved by Parliament, under provisions made as part of the Traffic Management Act 2004, to enable enforcement of traffic restrictions including the use of bus-only links. This would give the police powers to enforce the restriction and issue Fixed Charge Penalty Notices (FCPN) to unauthorised vehicles using the bus gate.

12.123 KCC envisage that these powers will be brought into use sometime after 1 June However, it should be noted that there is legislation that would allow KCC to issue FCPN now under provisions made as part of the Bus Lane Contraventions Regulations 2005. In this regard, there is the ability to re-open the bus gate now in advance of any decision being made in respect to the Traffic Management Act 2004. Moreover, KCC are collecting financial contributions from developers to help enforce bus gates, at a cost of £5,000 per site, as set out in the Infrastructure Delivery Plan of the Swale Transportation Strategy 2014-2031. Additionally, it is proposed that there is funding for an induction bollard through the planning obligation which would be more practical

than the current key operated gate to Oak Lane which because of the inconvenience of opening has not been used by the bus operator.

### *Travel Plan*

12.124 The transport assessment proposes a travel plan including appointment of a travel plan coordinator, establishing and maintaining a filing system for recording all correspondence relating to the Travel Plan;

- Coordinating travel surveys and survey questionnaires;

- Implementing the measures and initiatives outlined in this Travel Plan;
- Exploring additional Travel Plan measures when appropriate;
- Promoting the objectives and benefits of the Travel Plan; and,
- Acting as a point of contact for resident queries relating to the Travel Plan.

12.125 A Travel Welcome Pack would be provided to residents before occupation and will include information relating to access on foot, by cycle and by public transport. The Pack will be consistent with that for the adjacent employment site and will identify:

- The location of local amenities;
- The location of cycle parking and nearby cycle routes;
- The location of bus stops and bus timetabling information;
- The location of rail stations and timetabling information; and,
- Information about car sharing opportunities, such as LiftShare, 2Carshare and GoCarShare as well as the Kent Car Share Scheme 'Kent Connected'

12.126 A programme of monitoring and review centres around travel surveys with an initial travel survey to be undertaken within 6 months of initial occupation to provide an updated baseline mode share.

12.127 Monitoring surveys would be undertaken at years 1, 3 and 5 on the anniversary of the initial baseline travel survey. The review will be completed within two months of the annual surveys. This is in line with Travel Plan good practice monitoring and reporting requirements.

12.128 The travel surveys will inform monitoring reports which will provide a summary of the results, review of targets and will be used to make any recommendations regarding changes to the Travel Plan. The monitoring reports will be submitted to KCC.

#### *Assessment of Overall Transport Impact*

12.129 National Highways and Kent County Council as Highways Authority is satisfied with the overall impact of the scheme on the Highways Network. Following detailed work on the impact on this network in particular junctions to the strategic road network objections have been withdrawn. The acceptable nature of the means of access is in line with the NPPF para 111 and local plan policy DM8, and this counts towards the scheme in the planning balance.

**f) Impact on Rural Lanes**

12.130 Policy DM26 states

**Rural lanes**

***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. For those rural lanes shown on the Proposals Map, development proposals should have particular regard to their landscape, amenity, biodiversity, and historic or archaeological importance.***

12.131 In this case Church road is identified on the proposals map, Lomas Road is not. The scheme would not have vehicle access onto Church Lane other than the cluster of 6 units in the far south eastern corner of the site.

12.132 It is considered appropriate, as with items 1 and 2 on this agenda, to contribute financially towards the implementation of quiet lanes schemes on Lomas Road and Church Lane. This is included in the proposed heads of terms.

12.133 Consultation has revealed concerns that residents would park on Church Lane in order to secure swifter access Eastwards via the A2 and this could block the Church hearse bay. This is a remote chance however discussions with the Parish has led to creation of a dedicated parking area of 12 spaces for the church, which currently lacks any off street parking, which should alleviate this concern. The proposed S106 would require the laying out and transfer of this land prior to occupation.

12.134 Overall, with these measures the scheme is assessed as meeting the requirements of policy DM26 and this weighs in favour of the scheme in the planning balance.

**g) Impact on Public Rights of Way**

12.135 Public Footpath ZR189 is affected by the proposed development, and there are important routes (ZU16, ZU17 & ZU14) adjacent to and within the surrounding area for consideration which link to both local facilities, amenities and the wider PROW network.

12.136 Kent County Council Rights of Way Unit welcome the intention to upgrade Public Footpath ZR189, which goes from Lomas Road northwards then westward to close to the Great East Hall Estate, to Public Bridleway, by widening to 5m width, to give rights on foot, horseback and bicycle, by means of a Creation Agreement where the path is within the applicant's land ownership. This would be secured by condition and a small diversion on one section is needed to avoid any conflicts with the estate road network.

12.137 The planning obligation includes a proposed contribution of £70,500 to improve public footpaths ZU16 and ZU17 which connect to the wider area.

12.138 Overall these improvements count in favour of the scheme in the planning balance. **h)**

**Air Quality**

- 12.139 As set out in the Air Quality Assessment (provided as Chapter 9 to the ES), based on monitoring data and DEFRA background mapped concentrations, baseline pollutant concentrations at receptors which may be affected by the proposed development in the vicinity of the site are not typically expected to exceed the relevant air quality objectives (AQOs).
- 12.140 The air quality assessment has considered changes in traffic levels along the local road network as a result of the operational proposed development. NO<sub>2</sub> and PM<sub>10</sub> have been modelled for the assessment using the most recent version of ADMS-Roads. Predicted concentrations have been compared against local monitoring data to verify the model output. Changes in air quality impacts at existing receptors as a result of changes to traffic flows have been assigned impact descriptors based on the most recent Environmental Protection UK and the Institute of Air Quality Management (IAQM) air quality planning guidance.
- 12.141 The change in predicted NO<sub>2</sub> and PM<sub>10</sub> concentrations at existing receptors in the anticipated opening year of the proposed development (2027), following completion of the proposed development, is considered to be negligible in terms of effect, with the exception of two existing receptor locations (i.e. at approximately 151 East Street and approximately 49 Samuel Drive).
- 12.142 The initial estimate of additional impact on these two receptor locations, the first of which lies within the East Street Air Quality Management Area showed the net increase in traffic flows/pollution to be less than the thresholds set in national guidance for this to be material in planning terms. However, EIA cases are required to consider cumulative impacts and when this was recalculated with other schemes at East Street it was above the threshold of materiality and therefore required mitigation.
- 12.143 Swale is working with other Kent environmental health departments, especially along the A2 corridor, to prepare a bespoke scheme of mitigation measures. However, this is not yet ready, therefore an approach was negotiated based on the best practice 'emissions damage cost methodology whereby the total emissions were calculated and then using public health data to estimate the cost of this pollution.
- 12.144 This emission 'damage cost' value has been calculated and accepted by Mid-Kent Environmental Health and your officers using the method outlined in the Kent Air Quality Planning Guidance and Intergovernmental Panel on Costs and Benefits (IPCB) guidance.
- 12.145 The calculation uses the Department for Environment, Food and Rural Affairs (DEFRA) Emissions Factor Toolkit to estimate the transport emissions from a proposed development, which is then used to estimate the associated health damage cost. The emissions assessment and corresponding mitigation calculation has followed the below process:
1. The trips / annum generated by the Proposed Development have been provided from the project's transport consultants for the Proposed Development;
  2. Assume an average distance travelled of 10km / trip;



3. 2027 emissions of nitrogen oxides (NOx) and particulate matter 2.5 (PM<sub>2.5</sub>) (tonnes / annum) were calculated using the Emissions Factor Toolkit (EFT) v 11, assuming of an average speed of 50 km / h;
  4. Check for definition of the cost category using TAG UNIT A5.4: Marginal External Costs' guidance;
  5. Look-up the latest HM Treasury and Defra IPCB damage costs and multiply the outputs from above to provide a value of the emissions health damage, for each pollutant;
  6. Multiply the calculated emissions health damage values by 5, to quantify emissions over a five-year period; and
  7. Sum the NOx and PM<sub>2.5</sub> costs to provide a total health damage value. According to the project's transport consultants (Vectos), 2,567 AADT and 0 HDVs are anticipated to be generated by the Proposed Development. Assuming the average distance travelled in each trip to be 10 km, the emissions have been calculated using EFT.
  8. Total damage cost (£) 102,661 is calculated on the maximum number of dwellings (380 units) being delivered. Which is £270 / dwelling. This would be used towards active travel and other measures to improve air quality.
- 12.146 Before mitigation, the dust risk assessment identified that construction activities pose a maximum of a high dust risk to dust soiling, a low dust risk to human health and a negligible dust risk to ecological receptors. With the implementation of embedded mitigation measures which will be implemented via a CEMP, construction activities connected with the proposed development are expected to have a negligible effect on existing receptors.
- 12.147 There are no specific local plan policies relating to air quality in the adopted local plan, this refers to local and national guidance. The scheme with the mitigation proposed
- would meet the requirements in para 174 of the NPPF. As this offsets harm this is considered neutral in the planning balance.

### **i) Impact on Heritage Assets**

#### *Statutory Duty*

- 12.148 S66(1) Planning (Listed Buildings and Conservation Areas) Act sets a general duty that In considering whether to grant planning permission [F1or permission in principle] for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

#### *Archaeology*

12.149 Although most of the site has been disturbed by Brickearth extraction the remaining parts have archaeological potential given the longstanding evidence of settlement between the North Downs and the Swale dating back to Paleolithic times. Hence the County Archaeologist has recommended a standard investigation condition

#### *National Policy Context on Heritage Assets*

12.150 Paragraph 197 of the NPPF states that, in determining applications, LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with the conservation and the desirability of new development in making a positive contribution to local character and distinctiveness.

12.151 Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of the category and degree of harm.

12.152 Paragraph 202 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

12.153 Further, paragraph 203 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. It calls for a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. Case law establishes that the council must give considerable importance and weight to preserving or enhancing the character or appearance of a conservation area.

12.154 The relevant principles have recently been restated by the High Court in R (Save Stonehenge World Heritage Site Limited) v Secretary of State for Transport [2021]

EWHC 2161 (Admin), , which officers have had regard to as appropriate when drafting this report.

#### *Impact on Listed Buildings and Conservation Areas*

12.155 No designated heritage assets lie within the site.

12.156 The Grade II Listed West Tonge Farm lies immediately northwest of the site and is located within a farmyard that includes the Grade II Listed Stables 30 yards east of West Tonge Farmhouse and Grade II Listed Granary 20 yards south of West Tonge Farmhouse.

12.157 The Grade I Listed Church of St Giles lies c. 35m east of the site, on the opposite side of Church Road.

- 12.158 The Grade II Listed East Hall lies c. 310m west of the site and the Grade II Listed Bunces Farm lies c. 375m east of the site with the associated Grade II Listed Barn north-west of the Farmhouse.
- 12.159 The Tonge Conservation Area lies c. 50m south of the site and includes the Grade II Listed Mill House and Old Mill, c. 175m south of the site (1069265) and the Grade II Listed Tonge Mill, c. 200m south of the site (1338569).
- 12.160 The Grade II Listed Bunces Farm lies c. 375m east of the site (1069269) and the associated Grade II Listed Barn is located to the north-west of the Farmhouse (1121884). Because of mature vegetation screening this farm complex it was not taken forward into the heritage assessment.
- 12.161 The Heritage Assessment was undertaken using the methodology Historic England guidance Good Practice Advice GPA 3 The Setting of Heritage Assets.

*Church of St Giles (Grade I)*

- 12.162 The Grade I Listed Church of St Giles stands c. 35m east of the site, on the opposite side of Church Road.
- 12.163 The asset was added to the National List on 24th January 1967 with the following description:

*“Parish church. C12 and C14, restored C17/C16 and 1893 (£150). Flint, with red brick buttresses and chancel and plain tiled roofs. Nave and aisles, south tower and south porch. Nave and aisles under one roof. West door with triple hollow chamfered surround, and large C14 3 light west window with intersecting and cusped tracery; brick corner buttresses. C19 timber framed porch, with roll moulded and chamfered south doorway. South tower with twice offset corner buttresses with rectangular external vice to south west and single lancet lights. North aisle with 3 brick buttresses, jambs of blocked north doorway, and 3 gabled C19 dormer windows. Chancel west bay with single lancet to south, and blocked 2 bay arcade to north, the eastern bays rebuilt with red brick on medieval flint and ragstone base, with C17 2 light mullioned brick windows, and C19 east traceried window. Interior: C12 nave north arcade, 4 bays with unmoulded round arches, with 2 square and 1 round pier, the latter with spurred base and scalloped capital; south arcade with blocked round arch to west, and 2 chamfered and pointed C13 arches and square pier. Large buttress separates the arcade from the tower arch with C14 double chamfered arch on moulded octagonal corbels. Nave with roof of 3 crown posts beam ends on corbels to south. Tower with blocked eastern arch. Chancel arch a C19 copy of the tower arch. Chancel with part exposed jambs of blocked arcading. Fittings: early C16 rood screen of 5 bays with cusped panels, and cusped tracery with crenellated and sloping transoms and attached shafts with crenellated caps. Seven sided C17 pulpit with incised lozenge decoration and 2 attached wrought iron candle brackets. Box pews. Fragmentary C14 St. Christopher scene painted on north wall of nave.”*

- 12.164 The asset is currently on both local and the National Heritage at Risk Register and some repairs having been carried out to it in recent years. Following correspondence with the Borough’s Conservation Officer, who visited the church on 22nd March 2022, it was clear that some of the more pressing concerns regard the structure of the building had been addressed so the church was now watertight following repairs to the roof,

there are still some aspects of the historic fabric which are problematic, including the condition of the porch.

12.165 During the mid-19th century, there was a historical association between some of the land within the Site and the churchyard due to the presence of Vicarage House, Garden and Orchard within the Site, as they were both under the same occupancy, of William Eley, who likely used the churchyard for grazing. This historical association has since been severed. In addition, there were a row of terraced houses north of the Church which were demolished sometime in the 20<sup>th</sup> Century. This meant that unlike today where the ‘town end’ part of Tonge (south of the railway) is the village element previously it had a ‘Church end’ around St Gile’s church.

12.166 The Church of St Giles principally derives its significance from its built form which has architectural, artistic and historic interest as an example of a church which originated during the medieval period.

12.167 The heritage asset also derives a small amount of significance from its setting. The elements of its setting that contribute to its heritage significance comprise the following:

- Its immediate churchyard/burial ground which is historically associated with the asset and from where it can be best appreciated and experienced;
- The wider parish of Tonge which formed its congregation, although the distance from the village and the intervening railway line makes this an historic functional association rather than a visual relationship; and
- Elements of the wider agricultural landscape which reinforces the semi-isolated nature of the church

12.168 The only concern regarding the impact of the development on the Church is regarding its setting.

12.169 A Court of Appeal judgement Catesby Estates Ltd. V. Steer [2018] EWCA Civ 1697, (para. 25 and 26.) has confirmed that whilst issues of visibility are important when assessing setting, visibility does not necessarily confer a contribution to significance and also that factors other than visibility should also be considered, with Lindblom LJ stating at paragraphs 25 and 26 of the judgement (referring to an earlier Court of Appeal judgement):

*“But – again in the particular context of visual effects – I said that if “a proposed development is to affect the setting of a listed building there must be a distinct visual relationship of some kind between the two – a visual relationship which is more than remote or ephemeral, and which in some way bears on one’s experience of the listed building in its surrounding landscape or townscape”*

*This does not mean, however, that factors other than the visual and physical must be ignored when a decision-maker is considering the extent of a listed building’s setting. Generally, of course, the decision-maker will be concentrating on visual and physical considerations, as in Williams (see also, for example, the first instance judgment in R.*

*(on the application of Miller) v North Yorkshire County Council [2009] EWHC 2172 (Admin), at paragraph 89). But it is clear from the relevant national policy and guidance to which I have referred, in particular the guidance in paragraph 18a-013- 20140306 of the PPG, that the Government recognizes the potential relevance of other considerations – economic, social and historical. These other considerations may include, for example, “the historic relationship between places”. Historic England’s advice in GPA3 was broadly to the same effect.”*

12.170 In line with this approach officers have assessed first the impact of the development on visibility and secondly on non-visual (principally historic and urbanisation) factors.

12.171 There is an extensive band of band of vegetation along the eastern site boundary, in closest proximity to the church, which currently screen all but the top of the Church from views within the site. This band of vegetation would be strengthened as part of the landscaping proposals for the site.

12.172 From most of the site where there are views of the Church there is no current public access. The only public places where the top of St Giles tower would be seen from the site is from a section of public footpath ZR189 from its close to its southernmost point running north from Lomas Road. Here there are some glimpsed views of the top of the church tower but only in those locations where the eastern side of the hedgerow boundary of the path has been lost. The application proposes restoring this hedgerow.

12.173 With regards to the non-visual aspects of the setting this is in regard to the encroachment of the limits of Sittingbourne through urbanization towards the historic ‘Church end’ of Tonge where the church is now the only historic asset remaining.

12.174 As Heritage England State in their response

*This development would bring the suburbs closer to the church, and will be appreciable (for example, through noise, light, traffic) in the churchyard and on nearby approach roads to the church. The development is therefore likely to somewhat erode the rural origins and landscape qualities that contribute to the setting of the building as a medieval rural church, which is an important characteristic of its significance.*

*We recognise this is an allocated site, and we therefore have no in-principle objection to the site’s being developed. The proposals would cause some harm to the significance of the church through the erosion of its rural setting. We would consider this would likely fall within the less than substantial level of harm in NPPF terms, and towards the lower end of that scale.*

12.175 Given that the visual impact is limited as described above and the non-visual impact through urbanization is also limited given that the Church End of Tonge is no longer a settlement of multiple historic assets the combined impact on the setting of St Gile’s Church is considered towards the lower end of less than substantial harm. There would be some intrusion of noise and light experience within the Churchyard, however because of the extensive screening and vegetation belt on the eastern boundary of the site this is considered would be relatively limited. This assessment of the degree of harm is shared by Historic England and the Borough’s conservation officer.

12.176 The development proposals have taken the setting of the Church into consideration and the layout and proposed form of development has had extensive advice from Historic England, the case officer, the later urban design officer and the conservation officer to mitigate potential harm and also to enable the greater appreciation of the asset, which HE guidance GPA3 allows to be taken into account in mitigation.

12.177 The parameter plans show that development towards the eastern boundary of the site would be of a low density and would be two-storey in height so not to compete with the dominance of the church tower and will include open space between the vegetation and the built form. Some views from with the site towards the church tower will be altered or blocked, although new views will be created from areas which were not previously publicly accessible.

12.178 A view from the PRoW within the site towards the church tower will be retained through leaving vista along a road corridor, and, following comments from the Conservation Officer and Historic England, this will be an organic, informal view including built form and planting, rather than a designed view corridor towards the asset.

#### *Condition of St Giles Church*

12.179 The building is in poor condition and has been placed by Historic England on the Heritage at Risk Register (HARR), priority C (poor condition, slowly decaying with no solution found). It is one of four Grade I buildings – three of them churches – on the HARR in the area of Swale Borough Council.

12.1807. The congregation has done its best to address the building's problems, despite its limited resources:

i. after a period of monitoring, the church architect concluded that the church is structurally stable, despite extensive cracking in the chancel walls and at the east and west ends of the nave: these cracks open and close minutely in varying weather conditions but are not a threat to the stability of the church. The major crack in the chancel east wall has been repaired;

ii. the north slope of the chancel roof has been repaired and the chancel rainwater goods have been reconditioned; iii. the church has been partly rewired;

iv. tie beams have been inserted in the porch roof to prevent further spreading of the roof timbers (and resultant collapse of the porch).

12.181 Nevertheless, the building remains on the HARR and further repairs are needed:

a. extensive repairs are needed to the remaining roofs, especially that of the nave which has many slipped and missing tiles;

b. the pointing of the nave and tower walls is heavily eroded and needs repair – failure to repoint flint wall surfaces will eventually lead to collapse;

- c. an asbestos survey is needed and any asbestos found should be removed;
- d. areas of rot in the roof and porch timbers need treatment or replacement;
- e. the interior of the church has not been decorated for decades and, ideally, should be lime-washed if it is to be fit for community use;
- f. the medieval wall-painting is very decayed and needs specialist conservation: the Church Buildings Council (CBC) has offered a grant towards this but the parish cannot afford its share of the cost.

12.182 The Murston, Bapchild and Tonge Parochial Church Council has stated

'housing development may also offer opportunities to rescue the building and to give it new life, both as a church and as an asset for the community. With a new population living nearby, the congregation should grow, helping to increase the church's selfsufficiency. That population, whether or not churchgoers, will need a community centre of some kind and that may present an opportunity for dual-use of the church building. The nearest community facilities are at Lakeview Village Hall in Great Easthall Way, but this is 400 metres beyond the western edge of the site. The developer, Trenport, has included in its application 450 square metres of Class E/F floorspace which may be intended to provide community facilities – this is not clear. St Giles' church, if suitably repaired and adapted using Section 106 funds, could be an alternative, and much cheaper, way of meeting this need, providing a space for meetings, children's activities, mother and toddler groups, yoga, pilates, dance, exhibitions and concerts. The PCC emphasises that this would be for the whole community, not just for churchgoers.

The justification for devoting Section 106 funds to St Giles' church therefore has two strands: first, to compensate for the erosion of the church's historic setting and thus its significance as a heritage asset; and second, to enable it better to serve its community both as a church and as a community space. Incidental benefits would be to put the building in better condition and to enable it to be removed from the HARR, to secure its future and to encourage the congregation to keep it open for the enjoyment of local people and of visitors

We propose that the following repairs should be funded by Section 106:

i. further roof repairs; ii. repointing, especially the tower; iii.

treatment/replacement of rotten roof and porch timbers; iv.

asbestos survey and removal;

v. internal plaster repairs and lime-washing; vi.

conservation of wall painting.

13. We further propose that the following facilities should be similarly funded: vii. install water supply to church; viii. fit accessible toilet in west bay of nave south aisle, currently used as a storeroom; ix. fit kitchen and servery beneath the tower;
- x. install some form of heating in the church – probably electric radiant heaters in the community space and under-pew electrical heaters in the congregational seating in the eastern part of the nave.
- xi. clear box pews from west end of nave to provide community space and make good the floor; xii. adjust floor levels inside the west door to allow wheelchair access.

The church would certainly need a car park if it were to be used for community purposes. We note that Trenport have included such a car park in their proposals, which is most welcome.

The total cost of these works is estimated to be £163,000.

- 12.183 The proposed S106 includes this figure and would mitigate against the less than substantial harm to the setting of the church.

*West Tonge Farm (Grade II listed Complex)*

- 12.184 The Grade II Listed West Tonge Farm lies c. 30m west of the site. The associated Grade II Listed Stables and Grade II Listed Granary lie immediately adjacent to the site's western boundary. All three of the assets were added to the National List on 21st March 1985.

- 12.185 The description for West Tonge Farm is as follows:

*“Farmhouse, now 2 houses. C17 and C18. Timber framed and clad and extended with red brick, with concrete tile roofs. Timber framed range with brick cross-wing. NO. 2: two storeys on plinth with hipped roof and stacks to centre right and projecting end right. Two 2 storey canted bay windows, with central metal casement on first floor and central boarded door. Interior: Exposed timber frame; fireplace dated 1614; moulded wainscotting. NO. 1: red brick in English bond to right, extended in Flemish bond to left. Two storeys on plinth with discontinuous plat band, and modillion eaves cornice to kneelered gable roof, with stack to end left, and large triple off-set stack projecting end right. Three glazing bar sashes on first floor, 2 canted bays on ground floor and central 6 panelled and glazed door with segment headed porch.”*

- 12.186 The description for the Granary is as follows:



*“Granary. C18. Timber framed on staddle stones and clad with weather board with plain tiled roof. Square plan. One storey and hipped roof and central boarded door. Included for group value.”*

12.187 The description for the Stables is as follows:

*“Stable block. Early C19. Red and yellow stock brick and plain tiled roof. Two storeys on plinth with 5 pilaster strips framing entrances, a boarded door to saddlery (or game larder?) to left and boarded half door with loft door over to right. Two semi-circular windows to centre and to right. Included for group value.”*

12.188 The assets lie within their associated farmyard which is bounded by Sittingbourne Golf Club to the north (which has recently undergone a large amount of development); agricultural land within the site to the east; employment development to the south-west; and scrubland to the north-west. The surrounds of the heritage assets have undergone a large amount of change during the 21st century which has ultimately altered their setting.

12.189 There are views from within the northern land parcel of the site towards the Listed Buildings at West Tonge Farm. Views northwest from the northern extent of the site are to the southern elevation of the farmhouse at West Tonge Farm. This has since been subdivided into two separate residences.

12.190 Most of the significance of the assets at West Tonge Farm are embodied in their physical fabric, but setting does contribute to their significance, albeit to a lesser degree. Those elements of their setting that contribute to their heritage significance comprise the following:

- Group value with the associated Listed Buildings as part of the West Tonge Farm complex which allow the agricultural nature of the farmstead to be understood;
- Views towards the assets from the farmyard which allow the architectural and historical interest of the assets to be experienced;
- Historically associated agricultural land in the vicinity of the asset which allow the historic interest of the farmstead to be appreciated; and
- Adjacent agricultural land which allow the historic rural setting of the assets to be understood.

12.191 The site comprises agricultural land immediately adjacent to the farmstead with views towards the Listed Buildings. The site is considered to make a small contribution to the heritage significance of the Grade II Listed Buildings at West Tonge Farm as adjacent agricultural land which allows the historic rural setting of the assets to be understood and has views towards the assets.

12.192 In conclusions the application is therefore considered to meet the relevant tests in the revised the NPPF para 197- 203, noting the weight given to each impact based on its

importance. In line with para 203 greatest weight has been given to the impact on St Giles Church.

12.193 The proposed development includes open space in the northwestern extent of the site, in closest proximity to the assets at West Tonge Farm. Orchard planting is proposed between the built form in the north-eastern extent of the site and the open space which respect the local 'Fruit Belt' landscape character and would be community-focussed. As shown on mapping from the mid-20th century, this entire northern parcel of the site historically consisted of orchard planting, and this land-use was traditionally widespread within northern Kent.

12.194 New close-range views will be introduced towards the assets from an area of land which was previously not publicly accessible, which will allow the architectural and historic interest of the assets to be understood.

#### *Tonge Conservation Area*

12.195 The Tonge Conservation Area lies c. 50m south of the site. The Conservation Area includes two Grade II Listed Buildings, the Mill House and Old Mill and Tonge Mill, which are clustered alongside a mill pond formed at the northern end of a shallow valley leading to the marshes.

12.196 The Tonge Conservation Area Character Appraisal and Management Plan was produced by Wyvern Heritage and Landscape on behalf of Swale Borough Council in October 2020.

12.197 Tonge Conservation Area was first designated in July 1987. The boundary of the Conservation Area was reviewed and amended, and a summary Conservation Area Character Appraisal was prepared in February 2003. The October 2020 Appraisal included a proposed boundary extension which was approved at Cabinet in January 2022.

12.198 The Conservation Area Appraisal includes a bullet point summary of the significance and special interest of the Conservation Area as follows:

- Surviving earthworks of Tonge Castle, and fortified manor - the earthwork and its environs have high potential for Medieval and Post Medieval archaeology.
- Archaeological potential for prehistoric and Roman activity in the landscape and perhaps focused on the spring.
- The spring and stream have paleo-environmental potential.
- Association with legend of Vortigern, Hengist and Horsa.
- Association between the spring, the cult of Thomas Becket and grounds of former leper hospital.

- The historic mills include rare and attractive examples of Kentish vernacular industrial architecture and history.
- History of milling dating from 1086 to the 20<sup>th</sup> century utilising wind, water, and steam power.
- The stream and millpond and their relationship to the castle and mills.
- Area of informal recreation and varied natural habitat to the south of the millpond.

12.199 Intervisibility is very limited between the site and the majority of the Conservation Area due to the intervening railway line and vegetation along the embankment and views between the two are limited. The railway also provides separation between the Conservation Area and the continuation of Church Road to the north where there is a change in character as one heads underneath the railway bridge. The site is not considered to contribute to the heritage significance of the Tonge Conservation Area through setting.

#### *Conclusion on the Impact on Heritage Assets*

12.200 With regards to the Grade I Listed Church of St Giles, the development proposals include residential development in the eastern extent of the site to be of a low density and two-storey in height so not to compete with the dominance of the church tower, and will include open space between the vegetation and the built form. Some views from within the site towards the church tower will be altered or blocked, although new views will be created from areas which were not previously publicly accessible. The land within the site is considered to make a small contribution to the heritage significance of the asset. On this basis, the proposed development will result in less than substantial harm at the low end of the spectrum to the heritage significance of the Grade I Listed Church of St Giles through changes to setting. As a grade I listed building greater weight should be given to this impact in the planning balance in line with NPPF para 100

12.201 In terms of the Grade II Listed Buildings at West Tonge Farm, the proposed development will result in the construction of modern built form, orchard planting and open space to the east of the assets at West Tonge Farm. The land within the site currently makes a small contribution to the heritage significance of the assets. The proposed development will result in less than substantial harm at the low end of the spectrum to the heritage significance of the Grade II Listed Buildings at West Tonge Farm, via an alteration to setting.

12.202 The proposed development will result in no harm to the heritage significance of the Tonge Conservation Area.

12.203 In conclusion the proposed development will result in less than substantial harm at the low end of the spectrum to the heritage significance of the Grade I listed St Giles Church and the Grade II Listed West Tonge Farm, the Grade II Listed Granary and the Grade II Listed Stables, via an alteration to setting.

- 12.204 Individually and cumulatively this harm is less than substantial harm at the low end of the spectrum. As NPPF para 202 states this harm should be weighed against the public benefits of the proposal. Any harm will require clear and convincing justification (para 200). The overall public benefits are assessed in the concluding planning balance section of this report section 14.
- 12.205 The harm to the West End Farm complex is limited and mitigated by the proposed development of an orchard/open space in its immediate setting. This harm is considered to be clearly and convincingly outweighed by the benefits of the proposal in terms of meeting housing need, providing affordable housing, providing community facilities for this area and by helping complete the Sittingbourne Northern Ring Road which would improve the sustainability of this location in terms of public transport access and reducing the isolation and difficult road access to this part of Sittingbourne.
- 12.206 With regards to the impact on St Giles Church the visual impact is considered to be very low given the limited visibility of the site from the limited points from which there is public access to view the Church tower and hedgerow restoration will conceal this view in any event. This harm would not be appreciably reduced by pushing development away from the church and the harm is mitigated by careful design and opening new views of the tower which aid a greater appreciation of its setting. The non-visual harm to the church setting would be slightly reduced by a larger buffer to the Church however the degree of this harm is considered very small. The site is allocated and the greater scale of development than explicitly allowed for in MU2 and the lesser buffer than the indicative diagram in the local plan anticipated have been carefully considered in the design evolution of the scheme. This took a precautionary approach and the design of the scheme has shown that the potential harm can be mitigated against in an acceptable way.
- 12.207 The less than substantial harm to the setting of St Giles church is considered to be clearly and convincingly outweighed by the benefits of the proposal in terms of meeting housing need, providing affordable housing, providing community facilities for this area and by helping complete the Northern Ring Road which would improve the sustainability of this location in terms of public transport access and reducing the isolation and difficult road access to this part of Sittingbourne. This harm would be a little and slightly appreciably less in a reduced scheme, but such a reduced scheme would also greatly reduce the public benefits of the scheme. Therefore, in the overall planning balance it is not considered desirable to reduce the harm the scheme in a very limited way but reduce the public benefits of the scheme in a very substantial way.
- 12.208 The less than substantial harm at the lower end of the spectrum to these heritage assets weighs against the scheme in the planning balance and is considered outweighed in the overall planning balance by the identified planning benefits, including the contribution towards works which could remove the church from the at risk register, and given the church is grade I it is of itself of great weight.
- 12.209 Policy DM28 on listed buildings was drafted prior to the NPPF and does not include several aspects introduced in the NPPF including the significance of the building and the above planning balance test. Read in the light of the clarifying aspects of the NPPF

the scheme is considered to comply with the aims and purposes of policy DM28. j)

### **Brickearth Safeguarding**

12.210 As set out in the Minerals Assessment appended to the ES, the assessment of baseline conditions identified the western, central and south-eastern fields have most likely been historically worked for brickearth leaving only residual parts of the site, mostly in the northern section which is mostly proposed as open space with remaining reserves.

12.211 Although KCC Minerals have requested a minerals assessment one was provided as part of the EIA.

12.212 The Minerals Assessment, estimates a total maximum extractable volume of brickearth within the Site to be approximately 65,000 cubic metres (m<sup>3</sup>) based on a reserve thickness of 2.3 m and accounting for historical workings and buffer zones. This was assessed to not be of economic value nor practicable to work, based on the relatively small extractable volume and confirmation of a much larger site by Iwade, 5 km northwest of site, being of marginal viability at best. This is accepted and is in line with other schemes such as at Iwade and the MU4 site at Teynham with larger reserves that were not considered as economic.

12.213 Therefore, the scheme is considered to comply with minerals local plan policy DM& as exemption 2 on viability applies.

12.214 As there is no harm to development plan and national policy on safeguarding viable minerals reserves this is neutral in the planning balance.

### **k) Landscape Impact**

12.215 The local landscape character is described in the prevailing landscape character, the Swale Landscape Character and Biodiversity Appraisal (SLCBA). The Site and its surroundings are situated within the extent of the 'Teynham Fruit Belt' landscape character area (LCA), the key characteristics of which are described as follows [inter alia]:

- Undulating, intimate, landscape composed of small hills and valleys.
- Small-scale well managed network of orchards and occasional hop fields. Elsewhere enlarged arable and grazing fields.
- Narrow winding lanes enclosed by mature hedgerows and shelterbelts.
- Tracks, lanes and historic buildings raised above adjacent areas, which is indicative of the area's susceptibility to flooding.
- Mixed traditional historic houses and farms. 20th century residential and commercial development.
- Main transport routes include the railway and A2.

- Important local landmark at Tonge Mill and pond.

12.216 Fieldwork for the landscape visual impact assessment which forms part of the EIS has determined that the Site is visually well-contained by a range of landscape features situated within its extents and immediate surroundings. These features include prevalent vegetation (comprising established woodlands, tree belts, hedgerows and shrubs); alongside undulating landform and buildings in the intervening landscape, which combine to reduce the extent of visibility to locations in close proximity to the Site. From further afield, long-range views would be either heavily filtered by intervening vegetation, landform and / or buildings; glimpsed at most; and / or seen in the context of other existing buildings on the eastern edge of Sittingbourne. As a result, visibility on-the-ground of the Proposed Development would be very limited.

12.217 Effects on landscape character would be at their greatest within the Site. It is judged that effects would be Adverse owing to the change from a series of agricultural fields to new housing, albeit it is acknowledged that the Proposed Development would be located within a landscape that is closely associated to the existing developed edge of Sittingbourne and would relate well to its developed context and the site allocation has already assessed the change and considered it acceptable. Although the extent of development would be greater than indicatively shown in the local plan diagram for this site the visually enclosed nature of the site would limit harmful impact.

12.218 Beyond the Site's boundaries, effects would reduce with distance due to the limited intervisibility between the Proposed Development and the wider landscape. It has been assessed that within the immediate context of the Site (up to approximately 100m), effects upon completion – before proposed planting has matured – would be of a Medium – Low Magnitude and Moderate – Slight Significance. In visual impact terms the effects would be adverse as there would be a perceptible change from agricultural fields to new housing, albeit the Proposed Development would be relatively well-contained within the landscape; and relate well to, and be characteristic of, the existing developed edge of Sittingbourne.

12.219 Effects would reduce over time as landscape proposals establish and further screen / filter of views to the Proposed Development from the landscape beyond the Site's boundaries. Beyond 100m of the Site's boundaries, the effects on landscape character would decrease to a negligible-scale and magnitude, Minimal Significance and be Neutral, as there would be little to no intervisibility between the wider character area and the Proposed Development and no perceptible change to key characteristics. The only significant area outside the site where views would be Telegraph Hill where the scheme would be seen against the existing backdrop of the Great East Hall estate and the Industrial Units of Eurolink v, noting however there is no public footpath at this point and this view would not be visible from any publicly accessible area. Overall, the intrinsic and prevailing landscape characteristics of the area would not be discernibly affected through the introduction of the Proposed Development.

12.220 Whilst the Proposed Development would result in the loss of agricultural land and extend the existing settlement of Sittingbourne further east; it would be perceived as part of the landscape closely associated within the existing developed edge of the Sittingbourne and not infringe on the wider countryside.

- 12.221 In LVIA terms, effects would be adverse as open views across the Site would be replaced by views of built development. However, it should be noted that from these locations, longer-range views towards the wider countryside are generally curtailed by the Site's boundary vegetation, and as a result of the Proposed Development, there would be no loss of these views. With distance from the Site's boundaries, visual effects would gradually reduce. Effects would be, at most, of a Medium – Low Magnitude, Moderate – Slight Significance and Neutral from publicly accessible locations within the Site's immediate context. The Proposed Development will be partially screened by retained and enhanced boundary vegetation, and where visible, views would not be dissimilar to existing views of the developed edge of Sittingbourne. Over time, as proposed planting establishes and screens / filters views to the Proposed Development to a greater degree, visual effects would reduce. From further afield, beyond the Site's immediate context, visual effects would rapidly reduce as a result of intervening vegetation, buildings and landform screening views to the Proposed Development. Effects at most would be Low – Negligible Magnitude, Minimal and Neutral.
- 12.222 Effects on visual receptors would be at their greatest on the following visual receptors: the PRow (0273-ZR189-1), which runs through the centre of the site connecting Lomas Road (in the south) to Great Easthall Way (to the west); and publicly accessible areas on the eastern extents of the residential development to the immediate west of the Site. From these locations, views to the Proposed Development would be possible and effects would be, at most, of a Medium Magnitude and Moderate Significance. It should be noted also that these effects were considered as part of the local plan and considered acceptable and the net increase on the impact from this view of the additional development would be nil. Also parts of the view along this footpath is only available due to lack of hedgerow along parts of its eastern edge which needs to be restored
- 12.223 The Site does not lie within any designated landscape; nor does it contain any other landscape designations within its extent. One Area of High Landscape Value (SwaleLevel) (AHVL) is located approximately 15m east of the Site. Effects on the AHVL would be limited to a comparatively small area of the designated landscape, where views would be possible to the south-eastern extent of the Proposed Development, being of a Negligible Magnitude, Minimal Significance and Neutral. With distance from the Site from the wider designated landscape, effects would reduce as intervening vegetation, built infrastructure and landform combine to screen visibility of the Proposed Development, continuing to be of a Negligible Magnitude, Minimal Significance and Neutral.
- 12.224 Over the impact on landscape is considered acceptable and the additional impact of the additional housing units over and above that mentioned in the text of allocation MU2 very limited. The landscape assessment is considered reasonable as it does not at any point unreasonably downplay the impact and the landscape sensitivity or otherwise at this site is well known to your officers from the local plan assessment. Hence an independent review would be of little utility here. As such the scheme is considered to be in accordance with local plan policy DM24.

## **I) Design of Development**

### *Phasing Strategy*

- 12.225 The phasing strategy for the site has been developed to ensure deliverability of the scheme whilst safeguarding land for the Sittingbourne Northern Relief Road, in line with current Planning Policy.
- 12.226 Development is split between Phases 0-4, with the infrastructure and main route into the site being delivered under Phase 0. A phased approach will also be taken to the landscaping, to ensure each phase can deliver the green infrastructure requirements to achieve the required Biodiversity Net Gain.
- 12.227 In line with planning policy, Phases 3 and 4 are also proposed to be safeguarded for the Sittingbourne Northern Relief Road. Phases 1 and 2 will be delivered immediately, and the remaining phases 3 and 4 will be safeguarded until the local plan review regarding the SNRR is concluded.
- 12.228 At this point in time (as agreed through a planning condition or Section 106), the SNRR could come forward at Phases 3 and 4 of the proposed development, but only if there is a decision supported by evidence through the local plan process, either to fix the route (in which case one of the two phases could come forward, or drop the safeguarding, in which case neither could come forward).
- 12.229 The proposals have been designed in a way that allow either scenario to come forward and the description of development – and associated assessments to support this planning application – reflects up to 380 units (i.e. all phases of development) being built if the SNRR safeguarding is dropped in the future, or less if the SNRR goes ahead. This strategy has also influenced the road layout, which has been designed to work for either scenario, with the main loop road (and public transport route) accommodated within phases 1 and 2.

#### *Layout and Circulation*

- 12.230 The proposals provide a primary access route off the existing Great Easthall Way / Swale Way, with Access for 6 dwellings in the southwestern corner of the site will be taken from Lomas Road. It is not intended that vehicular access is provided between this parcel and the wider site, but it will be connected to the internal pedestrian and cycle. There would be similar access restrictions for the connections to the Great East Hall/Heron Way estate to the west. The overall layout fans out from the main access with a pedestrian and cycle only avenue/vista to the church.
- 12.231 Pedestrians and cyclists would be provided for throughout the development, with provision of circular walking routes connecting areas of development
- 12.232 Dedicated cycle routes are proposed throughout the site and provide connections to the National Cycle Network, which runs along the site's southern and eastern boundaries (national cycle route one). It is also proposed that the existing Public Right of Way is upgraded to a bridleway (5m wide).

#### *Landscape and Open Space Provision*



12.233 The proposals provide 8.47 ha of open space across the site, including a community green, orchards, allotments, an ecology corridor and green avenue. This exceeds the councils minimum open space standards.

12.234 The landscape masterplan is well considered with swale and attenuation features integrated with rather than dominating the open space and landscape networks.

#### *Density and Height*

12.235 The densities range from 35 - 50 dwellings per hectare (dph) across the site corresponding to 2-4 storeys in height.

12.236 The higher range of density is proposed for development adjoining East Hall Farm to the west, which is reflective of the existing densities in this area. The higher density range is also proposed at the centre of the site and around the site entrance, which is well connected and fronts the proposed community green space. In the centre of the site around the proposed open space heights would be a maximum of 4 storeys.

12.237 The lower density and height range of development is proposed around the periphery of the site, in response to the existing woodland and vegetation, surrounding open space and nearby heritage assets. Heights would be a maximum of 2.5m adjoining the Great East Hall/Heron Way estate and a maximum of 2m adjoining St Giles Church and on the north eastern rural fringe.

12.238 The density of the scheme corresponds to schemes in the last decade on the eastern edge of Sittingbourne. The greater variation in heights allows for more generous open space and space for active travel as well as more units around the parts of the site with access to the central open space, the bus stops and proposed community facility. This is considered an effective use of land and good urban design.

#### *Character Areas and Design Code*

12.239 The masterplan is split into four-character areas, which have been established throughout the design process and lessons learnt in the local context study to create a series of distinctive places. Each area relates to its individual location across the site, adjoining open spaces and responses to the surrounding context reviewed in the local context study.

#### *Conclusion on Design*

12.240 The overall design of the parameter plans are well considered and were done in close liaison over a number of months with Council officers. The design derives from a character study and appreciation of the opportunities and constraints of the site as well as from closely following the national building for life principles.

12.241 The design would provide a successful urban-rural transition of the site and sensitive treatment of the setting of the adjoining listed buildings. The overall layout and form would have a clear identity and structure which would be an improvement on the adjoining estates. The reserved matters applications would need to follow the submitted

design code which sets different principles for the site in a series of wellconsidered character areas.

12.242 The scheme is considered to follow the design policies of the NPPF and local plan policies CP4 and DM17 and 19 concerning design, which will be secured through implantation of the design Guidance and Design Code document. This counts strongly in favour of the scheme in the planning balance.

### m) Open Space Provision

12.243 Paragraph 91 of the NPPF states that planning policies and decisions should aim to achieve healthy, inclusive and safe places which: promote social interaction; are safe and accessible; and enable and support healthy lifestyles.

12.244 Paragraph 96 of the NPPF states that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and wellbeing of communities.

12.245 The proposals provide 8.47 ha of open space across the site, including an ecology corridor along the extended Swale Way a community green where the site entrance off the extended Swale Way would be a community orchard in the far South East of the site, and open space next to West Tonge Farm at the northern end of the site there would also be an area of community allotments, and a green avenue along a visual corridor to St Giles Church Tonge. In addition, the Green Infrastructure proposals include tree line streets across all the main avenues and connectors streets within the development as required by National Policy.

12.246 The breakdown of areas of open space compared with the council open space standards are as follows:

Open Space Provision – Comparison with Policy Requirements		
	Requirement (ha)	Proposed (ha)
Parks and Gardens	1.00	2.46
Amenity Green Space	0.41	
Provision for Children and Young People	0.22	
Natural and Semi-Natural Green Space	3.94	5.83
Allotments	0.18	0.18
Total	5.75	8.47

12.247 Allocation MU2 clause text envisages the final component of the standard, playing fields, could be provided off-site through a financial calculation.

12.248 Discussions with the Councils Greenspaces officer confirm that a formal sports off-site contribution would be sought toward additional facilities at East Hall Recreation Ground at a level identified in the current; Open Spaces and Play Strategy at £593.00 per dwelling.

12.249 Overall, the open space provision, as shown in the Open Space Parameter Plan, is in compliance with local plan policy DM17 and this counts in favour of the scheme in the planning balance.

#### **n) Noise**

12.250 Mid-Kent Environmental Health have accepted the Noise and Vibration chapter of the EIA that it is likely to be feasible to meet the BS 8233 and WHO guideline internal noise levels. The report also sets out that a more detailed calculation of the internal noise levels will be undertaken during detailed design stage to assist with the design of the building façade and ensure suitable internal noise levels are achieved. The likely impacts are assessed for the construction phase which some adverse impacts are identified receptors in the phases of development. With this includes recommendations for Best Practical Means mitigation which shall be include in a robust CEMP (Construction Method Statement - conditioned below). This shall include all those and addition mitigation measures recommended for Volume 2 Chapter 10 of the ES.

12.251 As such the scheme is considered to comply with local plan policy DM14 and that given potential harm can be mitigated is neutral in the planning balance.

#### **o) Energy**

12.252 As set out in the EIA Energy Assessment the proposed energy strategy follows a 'fabric first' hierarchy of three stages: 1) Energy Efficiency, 2) Heat Networks and 3) Renewables. This hierarchy aims to ensure energy efficiency is maximised prior to improvement of energy supply.

12.253 Energy Efficiency measures are suggested including enhanced insulation of the building envelope to achieve U- values better than those required under Part L 2013, as well as improving air tightness, reducing effects from thermal bridging and specifying energy efficient lighting and appliances. Heat Networks are not recommended for the Proposed Development on the grounds of potential (based on the Local Plan Energy Opportunities Map). Air-source heat pumps are recommended as the appropriate low-carbon strategy for the provision of heating and cooling.

12.254 It is estimated that a reduction in site-wide regulated carbon dioxide emissions of at least 50 % (based on 2013 building regulations baseline) will be achieved. Full details are provided in the Energy Assessment.

12.255 The scheme would comply with part 14 of the NPPF which seeks a transition to a low carbon future. This would count in favour of the scheme in the planning balance.

#### **p) Flooding and Drainage**

12.256 Considering flood risk, a detailed Flood Risk Assessment (which has been submitted as part of the planning application) has been carried out for the Site and an assessment of potential effects on potential receptive watercourses and other hydrological elements has been carried out. The development area of the Site is shown to be at very low risk

of fluvial flooding overall. No development is proposed in the small area at risk of flooding in the Southeast of the site.

- 12.257 The on-site watercourse, the Murston Lakes (angling lakes), the Murston Lakes and the River Swale (including its designated site status) are the main receptors in the area, being considered a low, a high, a high and a high sensitivity receptor respectively.
- 12.258 In order to prevent flooding on and off the Site, attenuation and controlled discharge be utilised to control surface water flows. These features will be designed to store the volume of water associated with a 1 in 1000-year rainfall event, plus an additional allowance to account for increased rainfall due to climate change. This will provide a betterment over the existing scenario.
- 12.259 The proposed embedded mitigation of the sustainable drainage network would ensure that there are no adverse residual effects associated with the proposed development in terms of flood risk and risks to the water quality of the receptors. The inclusion of the embedded mitigation (surface water drainage strategy) would result in a minor beneficial operational effect, with the drainage strategy attenuating surface water onsite prior to discharging at a greenfield rate.
- 12.260 Following detailed discussions with Kent County Council as lead local flood authority it has been agreed that at reserved matters stage details (secured through a proposed condition) would ensure attenuation and surface water drainage to the required 100 year flood (including a climate change allowance). On this basis the scheme is acceptable.
- 12.261 The scheme is considered to comply with local plan policy DM21. This is neutral in the planning balance.

#### **q) Ecology and Biodiversity Net Gain**

- 12.262 The site comprises three agricultural fields that are subject to active arable cultivation or set-aside; two fields that were formerly under arable cultivation but have since become colonised with grassland, tall ruderal and scrub vegetation; a series of hedgerows and scrub-belts marking the field boundaries; and a block of secondary woodland.
- 12.263 The Site supports a population of reptiles (slow-worm, common lizard and grass snake), foraging / commuting bats (predominantly common pipistrelle and soprano pipistrelle, but with noctule, brown long-eared bat and Myotis species also recorded), two badger setts, and an assemblage of breeding and wintering birds that are consistent with the habitats present.
- 12.264 Each of the above species are common (i.e. not protected by the European habitat directive) species protected through non-planning legislation (such as badgers and slow worms) or in the case of bats there are no roosting/nesting detected on site.
- 12.265 The Landscape and Open Space Strategy (as set out within the Design and Access Statement), which has sought to retain the woodland, scrub-belts and hedgerows as

far as possible within the development, and to create new locally-appropriate habitats, including ponds and representations of the Priority types traditional orchard and reedbed. These habitats will also form part of the semi-natural public open space provision, which is intended to serve much of the day-to-day recreational needs of new residents.

12.266 Unfortunately, the scheme has not included a scheme for the remaining undeveloped part of the MU2 site, known as the Murston Lakes areas, which is in the same ownership, even though this is a specific issue mentioned in the policy. The applicant has agreed to a condition which covers this area.

12.267 Assessments made using Natural England's Biodiversity Metric calculation tool version 3.1 demonstrate that the proposals for the site would avoid a net loss of biodiversity, and that a net gain of over 10% can be achieved for both area-based habitats and also for hedgerows.

12.268 The Ecological Mitigation Strategy (provided in ES Volume 4, Appendix C3), contains protected species mitigation strategies and a strategy for achieving biodiversity net gain. This will be secured by a planning condition on the reserved matters.

12.269 This will be delivered primarily via on-site habitat creation, and by sympathetic management of habitats to enhance condition. Whilst it is intended that the focus of habitat enhancements would be on-site, there are also opportunities to deliver off-site enhancement. After review of the calculations these are acceptable to KCC Ecology.

12.270 With this biodiversity net gain and the proposed mitigation measures the scheme is considered to meet the requirements of National Policy in section 15 of the NPPF as well as complying with local plan policies DM28 and DM29.

#### **r) Trees**

12.271 No trees would be directly lost in the proposed masterplan whilst a belt of woodland towards the Southern corner of the scheme would be retained.

12.272 One house shown on the indicative layout would be within the root protection areas of one tree. This is an outline scheme however with layout as a reserved matter and the Council's tree officer is confident that here is scope to refine the layout to avoid this potential conflict at reserved matters stage.

12.273 With this proviso the scheme would comply with local plan policy DM29 and this would be neutral in the planning balance.

#### **s) Swale SPA Impact**

12.274 Para 182 of the NPPF states

*The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in*

*combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.*

12.275 The site is within 6km of both The Swale Ramsar and Special Protection Area and Medway Estuary and Marshes Ramsar and Special Protection Area. Any residential developments within 6km of these internationally designated areas will need to contribute to the Strategic Access Management and Monitoring Strategy (SAMMS) to offset any potential impacts as a result of increased recreational activity over these areas. This is included in the proposed S106 heads of terms. Appendix 1 gives a full appropriate assessment of the scheme.

12.276 There has been significant discussion with Natural England. Their initial concerns were whether the site had any 'functionally linked land' for overwintering birds and summer ground nesting birds. Following further discussions and survey information this was concluded to Natural England's satisfaction and the objections were withdrawn.

12.277 With the proposed mitigation the scheme is considered to fully comply with national policy and local plan policy DM28. With the mitigation of impact, including recreational access to the Murston Lakes area, this is neutral in the planning balance.

#### **t) Impact on Social Infrastructure**

12.278 Proposed heads of terms are set out for a range of social infrastructure including school places and GP provision are set out in the heads of terms.

12.279 Each of the required contributions would meet the tests in The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) (Regulation 122) i.e. they are:

1. *Necessary,*
2. *Related to the development, and*
3. *Reasonably related in scale and kind*

12.280 This should fully mitigate the impact of the scheme on social infrastructure and complies with national planning policy, regulations and local plan policies CP5 and CP6.

12.281 This weighs in favour of the scheme in the planning balance.

#### **u) Other Issues**

12.282 Proposed conditions deal with potential contamination from Brickearth gas.

12.283 There are no other significant material planning matters.

### 13. PLANNING BALANCE AND CONCLUSION

13.1 Overall, the scheme is assessed as being fully compliant with national and local planning policy.

13.2 The scheme is allocated for development. The number of units is in excess of those expressly permitted by allocation MU2, however the wording of the policy does not prohibit a greater number of units, rather it sets out several criteria which must be met. The scheme is assessed as meeting those criteria.

13.3 The scheme is partially within and partially outside the defined built-up area of Sittingbourne, Milton and Murston in policy ST3, however, the wording of the policy allows for development on allocated urban extension sites to extend outside the built-up area boundary within the allocated boundary. Given that the assessment is that the scheme complies with the MU2 allocation criteria this is considered acceptable.

13.4 The scheme's landscape impact is considered acceptable. The scheme is well contained and only visible outside the site in limited areas in particular the elevated Telegraph Hill area to the north, where the marginal impact against the current urban edge would be limited. There would be no erosion of rural character or locally valued landscapes. The scheme would be a logical completion of the east Sittingbourne urban extensions.

13.5 The proposals provide a number of benefits to Sittingbourne. These include:

- The proposals provide up to 380 much needed housing units;
- The proposals also provide 450 sqm of non-residential floorspace (Use Class E/F) to contribute to the economy within Sittingbourne, which would help provide a more balanced community with local facilities;
- The site is able to come forward in the short term, making an immediate contribution to housing land supply;
- The site will not be tied into any national Highways Grampian conditions, unlike other strategic sites within the Borough.
- The site provides in excess of the policy compliant level of affordable housing (15% as opposed to 10%).
- A range of housing is provided, from 1-4 bedroom apartments and houses, with a focus on family units as required by Policy to help meet local needs;
- The scheme would provide the land for the completion of the Sittingbourne Northern Relief Road (SNRR) final phases and construction of the section to the site entrance. The proposed S106 would safeguard land for the SNRR as required by local plan policy. This would retain the potential for major reductions in congestion and harmful air quality emissions in central Sittingbourne from any future such road.

- The scheme would secure the provision of route 349 serving east Sittingbourne, as well as its extension to the site and the provision of a through service to the Great East Hall estate through provision of an induction bus gate. Combined with retaining the potential for the Sittingbourne Northern Relief Road this would greatly increase the sustainability of the eastern suburbs of Sittingbourne through securing the otherwise fragile bus routes in the area.
  - The proposals provide above policy compliant open space, as required by Policy DM17, which a range of high-quality open spaces for existing and new residents to access.
  - A 10% (as a minimum) biodiversity net gain will be provided as well as landscape improvement to the remaining undeveloped part of the MU2 site as required by policy.
  - A number of allotments are also provided around the site.
  - PROWs will be enhanced and new footpaths / cycle paths shall be introduced to encourage sustainable modes of transport. The PROW shall also be upgraded (to be agreed via S106) to Bridleway standards to accommodate both pedestrians and cyclists.
  - Enhancements to Tonge Parish Church (currently on the national and local heritage-at-risk register) including funding towards restoration works.
  - The proposals provide 12 car parking spaces for the Parish to support the continued use of St Giles Church.
  - A number of further contributions agreed as part of the Section 106, including towards GP services, schools, sport pitch provision and libraries.
- 13.6 Overall, the proposals provide a logical and sustainable extension to Sittingbourne and help achieve the core aims of sustainable development within the NPPF through providing social, economic and environmental benefits.
- 13.7 Very careful consideration has been given to the impact on adjoining listed buildings, given their proximity and reference in the MU2 criteria.
- 13.8 The impact on the setting of the West Tonge Farm complex grade II listed buildings would individually and cumulatively be limited. The less than substantial harm, at the lower end of the scale, is more than outweighed by the above public benefits.
- 13.9 Great weight should be given to the impact on the Grade I listed St Giles Church. The impact would be very limited given its limited visibility within the site and mainly of a historic and urbanizing impact nature. This impact is assessed as at the lower end of the less than substantial scale and would be more than outweighed by the public benefits. A reduction in the number of units would have only marginal impact on the limited harm and would substantially reduce the above benefits. The limited impact is



mitigated by funding for restoration works. Individually and cumulatively the impact is considered acceptable when assessed against national and local plan policy tests.

13.10 Paragraph 11d of the NPPF states:

*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.*

13.11 Overall the scheme is considered to be fully policy compliant. As the Borough still has not achieved a 5 year housing land supply when considered against the standard method the 'tilted balance' (NPPF Para 11d footnote 8) applies and the conformity with the development plan weighs further in favour of approval.

13.12 The findings of *Gladman Developments Ltd v SSHCLG & Corby BC & Uttlesford DC [2021] EWCA Civ 104* were that the test of the NPPF can be encompassed under into the decision-making under s70(2) of the TCPA 1990 and s38(6) of the PCPA 2004 in one all-encompassing stage, as here the scheme is assessed as policy compliant and in accordance with the development plan the scheme is recommended for approval.

13.13 If members do not take the view that the scheme is policy compliant due to either the quantum of development and/or part of the scheme being outside the built-up area boundary then this has two consequences. Firstly as the 'tilted balance' applies in any event Policy ST2 contains a clause that schemes in compliance with National Policy outside the built-up area boundaries are acceptable. Which means that the excess number outside the built-up area boundary is acceptable. Even so means that policies relating to the supply of housing cannot be considered up to date. This include the Sittingbourne, Milton and Murston settlement boundary so this would trigger a presumption in favour of development under NPPF para 11d as the tilted balance has the effect of disapplying the built-up area boundary.

13.14 So as can be seen although this application raises complex issues of local plan and national policy interpretation, whether or not the scheme is local plan compliant given the application of the tilted balance, whatever interpretation is applied the conclusion is the same; either a presumption in favour of the scheme because it is policy compliant or a presumption on favour of the scheme because it is not but with tilted balance then applying as part of the presumption in favour of development.

13.15 Although the later phases of the scheme are not likely to complete until year 7 the earlier phases by themselves would be likely to take the borough close to or tip the borough over the 5-year supply number as the shortage is now only around 198 units. This would be a major achievement for the borough placing it back in control over schemes not complying with the local plan. The ability of this and other schemes on this agenda towards regaining a 5-year housing land supply counts strongly in favour of the scheme

in the planning balance. This is additional to the assumptions in bearing Fruits and the current 5YHLS which assumed the plan review and decision on the SNRR would come before delivery of this site.

13.16 In this case the impact of the plan being out of date are limited as firstly the Borough is at the cusp of achieving a 5-year housing land supply, secondly since the examination in Bearing Fruits the situation with long term transport infrastructure has become much clearer and the issues surrounding the delivery of the SNRR. By providing certainty on these issues the scheme would in very large measure succeed in bringing the plan up-to-date.

13.17 Weight is given to achieving local plan housing delivery and other policy and to achieving a housing gain without unacceptable harm in excess of the explicit numbers accounted for in the MU2 allocation.

13.18 In this case the policies concerning ‘assets of particular importance’ in this case the Swale and Medway SPAs and the listed buildings adjoining site, are complied with. Also the benefits of the scheme significantly and demonstrably outweigh the limited adverse impacts.

13.19 The scheme is assessed and being in conformity with national policy and the local plan. The scheme overall represents good urban and landscape design and has major planning benefits, including keeping open options for completion of the SNRR and securing bus services and local facilities for the area. It is recommended that planning permission be granted for the proposal subject to conditions and the completion of a Section 106 agreement.

**14. RECOMMENDATION**

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

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

**Proposed Heads of Terms**

Per Unit (x up to 380 units )	Total Assumes	- Paid to	Project
	maximum 380 units		

<p><b>Sittingbourne Northern Relief Road</b></p>	<p><b>Land and financial contribution towards construction</b></p>	<p>II. to be assessed and finalised</p>	<p>KCC</p>	<p>I. The Owners covenant with the County Council and with the Borough Council to reserve the NRR Reserved Land and retain it in an undeveloped state for the period of 20 years from the date of this Agreement and (subject to the following provisions) to make it available to Kent County Council any time within the 20 year period on 3 months prior written notice served by the County Council on the Owners for the purpose of the County Council constructing on it. The need for retention of this clause shall be reviewed following 10 years or the adoption of a revised local plan whichever occurs sooner. II. On or as soon as practicable following the expiry of the period of the notice the Owners shall transfer the SNRR Reserved Land to the County Council for a consideration assessed at the agricultural value of the land as at the date of the notice served pursuant to clause I above to be agreed between the parties and the transfer of the land shall be subject to the entries on the titles to the NRR Reserved Land at the date hereof other than the Charge and subject to a covenant by the County Council to use the NRR Reserved Land for the construction of the extension of</p>
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				<p>the Sittingbourne Northern Relief Road on the land and for no other purpose</p> <p>III. Construction and provision in lieu of this road from the site entrance at the Eurolink phase IV roundabout to the residential site entrance to a design agreed with Kent County Council and Swale Borough council.</p> <p>IV Financial contribution to KCC towards the of design and construction of this road and associated bridge south/east of this point to as required by policy MU2 clause 7. V. If any revision to the Bearing Fruits Local Plan drops or reduces the coverage of safeguarded land under policy AS1 then all unneeded land to be transferred back to the applicant within 1 year under the Crichel Down rules</p> <p>VI. Similarly, if full planning permission is granted for the Sittingbourne Northern Relief Road then any residual and unneeded land on which construction has not yet commenced shall be transferred back to the applicants under the Crichel Down rules</p> <p>No planning application for reserved matters on phases II or four shall take place until the adoption of a revised local plan for Swale.</p> <p>Reserved land is defined as all land within the AS1 boundary</p> <p>Any section of road to serve the proposed development that will form part of the alignment of the Sittingbourne Northern Relief Road must be built to distributor road standards with a 7.3m carriageway and separate footway/cycleway in accordance with details to be submitted to and approved in writing by the Local Planning Authority.</p>
<b>Induction Bus Gate to Great East Hall Way, plus camera enforcement</b>		£90,000	KCC	Prior to Phase 1.
<b>Capital and revenue subsidy to Route 349 bus route</b>		£150,000 per year for four years revenue contribution plus	KCC and Chalkwells	Prior to phase 1. Payable in lump sum rather than per unit.

<b>Travel Vouchers</b>	Financial contributions	£350 per dwelling	KCC	6 months of bus vouchers amounting to £350 for travel within the borough upon first occupation of that dwelling.  Total £133,000 for 380 dwellings
<b>Road Improvement</b>	Financial contributions	£2,657 per dwelling	KCC	Contribution of £34,492 towards A2/Murston Road junction improvements.  Contribution of £36,208 towards A2/Swanstree Avenue junction improvements.  Contribution of £2,657 per dwelling for HIF recovery towards A249/Grovehurst Road junction improvements.  Total £ 1,009,660 for 380 dwellings.
<b>Landscape, Biodiversity Improvements to Murston Lakes Area and provision of public access</b>	Provision in Kind			In accordance with scheme to be agreed by condition  Provision in Kind
<b>Granting of land to form access to site to South</b>		In Kind	KCC	Access to 20/506066/OUT Land to North of Lomas Road, remaining part of MU2 allocation
<b>Pedestrian crossing for Snipeshill Footpath on Tonge Road</b>	Financial contribution	£25,000 contribution	KCC	Connects site and Great East Hall Estate to schools south of Chatham Main Line Railway
<b>Residential Travel Plan implementation</b>				In accordance with submitted travel plan supplementary to TIA and EIA.
<b>Car Park St Giles Church Tonge</b>	Provision in Kind	£20,000	Tong e PC	6 spaces

<b>Improvements/repairs to Fabric St Giles Church Tonge</b>	Provision in Kind	£163,000	Tong e, Murs ton and Bapc hild PCC	Work schedule to be agreed
<b>Primary Education</b>	£4,642 per applicable house  £1,160.50 per applicable flat	£1,763,960	KCC	Towards a 1FE expansion at Teynham CE Primary School and/or provision of new places within the Sittingbourne East planning group  (‘applicable’ means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).
<b>Secondary Education</b>	£5,176 per applicable house  £1,294 per applicable flat	£1,966,880	KCC	Towards a new Secondary school within the Borough serving this development  (‘applicable’ means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).
<b>Secondary School Land</b>	£2,635.73 per applicable house  £658.93 per applicable flat	£1,001,579	KCC	Towards the land costs of the new Secondary School in Northwest Sittingbourne (Local Plan Policy MU1) and/or new Secondary Schools in Sittingbourne nonselective and Sittingbourne & Sheppey selective planning groups.  (‘applicable’ means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).
<b>Community Learning</b>	£16.42	£6,239.60	KCC	Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre and outreach provision to increase capacity in the service.
<b>Youth Service</b>	£65.50	£24,890	KCC	Towards additional resources and upgrade of existing youth facilities including the New House Sports and Youth Centre in Sittingbourne to accommodate the additional attendees, as well as resources and equipment to enable outreach services in the vicinity of the

<b>Library Service</b>	£55.45	£21,071	KCC	Contributions requested towards additional services, resources, and stock at Sittingbourne Library serving the development.
<b>Social Care</b>	£146.88	£55,814	KCC	Towards Specialist care accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough.
<b>Waste Management Facilities</b>	£183.67	£69,795	KCC	Towards capacity at HWRCs and WTS' within the Borough
<b>Waste Bins (Blue and Green)</b>	£60 per property	£22,800	SBC	
<b>Quiet Lane or equivalent traffic management Schemes on Lomas Road and Church Lane, and potentially measures on the Scraps Hill, Hempsted Lane, Church Road triangle.</b>	£21,000	£21,000	KCC	Contribution, together with two other schemes on Lomas Road  All schemes subject to statutory consultation and agreement of associated traffic management orders.

<b>Affordable Housing</b>	On site	Provision on site			
		<b>Property type</b>	<b>Affordable Dwellings</b>	<b>Of Which</b>	
				25% first homes	75% social rent
		<b>1BF</b>	7	TBA	TBA
		<b>2BF</b>	12		
		<b>2BH</b>	5		
		<b>3BH</b>	21		
		<b>4BH</b>	12		
<b>TOTAL</b>	<b>57</b>	<b>14</b>	<b>43</b>		

				<table border="1"> <thead> <tr> <th>Phase</th> <th>Market</th> <th>Affordable</th> <th>TOTAL</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>121</td> <td>13</td> <td>134</td> </tr> <tr> <td>2</td> <td>59</td> <td>19</td> <td>78</td> </tr> <tr> <td>3</td> <td>88</td> <td>15</td> <td>103</td> </tr> <tr> <td>4</td> <td>55</td> <td>10</td> <td>65</td> </tr> <tr> <td><b>TOTAL</b></td> <td><b>323</b></td> <td><b>57</b></td> <td><b>380</b></td> </tr> </tbody> </table>	Phase	Market	Affordable	TOTAL	1	121	13	134	2	59	19	78	3	88	15	103	4	55	10	65	<b>TOTAL</b>	<b>323</b>	<b>57</b>	<b>380</b>
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<b>TOTAL</b>	<b>323</b>	<b>57</b>	<b>380</b>																									
<b>Primary Care</b>	£864	£328,320	CCG	<p>Towards refurbishment, reconfiguration of Memorial Medical Centre and/or Green Porch Medical Partnership and/or towards new general practice premises for The Medic Care Practice in the area.</p> <p>Note that this is higher than items 1 and 2 on the agenda as three practices would need upgrading.</p>																								
<b>Public Right of Way Improvement</b>	£70,500	£70,500	KCC	<p>Upgrade the surface and accessibility of Public Footpaths ZU16 and ZU17 as mitigation for the predicted increase in use by new residents:</p> <ul style="list-style-type: none"> <li>• 200m vegetation clearance - £12,000</li> <li>• 650m of surface repairs (stone with dust finish) - £58,000 Total: £70,500 to be index linked</li> </ul>																								



<b>Sports Provision</b>	£593.00 per dwelling.	£225,340	SBC	Off-site improvements to existing open spaces
<b>SPA Strategic Access Management and Monitoring Strategy (SAMMs)</b>	£281.00	£106,780 Plus provision in kind in the Murston Lakes Areas in line with allocation MU2	SAM Ms	SAMMS management scheme
<b>Air Quality Damage Cost</b>	£270 / dwelling.	£129,600	KCC	Per phase prior to occupation of that phase
<b>Total</b>		£ 7,728,229 plus contribution to SNRR Road Design/Construction Costs		

Please note that these figures are to be index linked by the BCIS General Building Cost Index from April 2020 to the date of payment (Apr-20 Index 360.3)

Payments to be made prior to unit occupation.

**CONDITIONS** to include:

### 1. Time Limit – Outline Schemes

The development to which this permission relates must be begun not later than the expiration of five years from the date of the grant of outline planning permission in the cases of phases one and two, or nine years in the case of phases three and four; or

two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

## 2. Time Limit – Reserved Matters

Application for approval of reserved matters, by phase, referred to in Condition (1) above must be made not later than the expiration of the period set out below. The phases referred to being those set out in approved Phasing Parameter Plan Ref: 21.042.0115.P2 26th September 2022, beginning with the date of the grant of outline planning permission.

- Phase One and Two: Three Years
- Phase Three and Four: Seven Years

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

## 3. Reserved Matters

- a) Prior to or contemporaneous with the submission of any reserved matters by phase under condition (1) for **layout** referred to in condition the following shall be submitted to and approved by the local planning authority: finished site levels, proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture
- b) Prior to or contemporaneous with the submission of any reserved matters by phase under condition (1) for **appearance** referred to in condition the following shall be submitted to and approved by the local planning authority: finished site levels: the palette of building materials and elevational designs.
- c) Prior to or contemporaneous with the submission of any reserved matters by phase under condition (1) for **landscaping** referred to in condition the following shall be submitted to and approved by the local planning authority: details of both hard and soft landscape works. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials.
- d) Prior to or contemporaneous with the submission of any reserved matters by phase under condition (1) for **heights** referred to in condition the following shall be submitted to and approved by the local planning authority: Heights above ordnance datum including completion of finished levels.

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

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

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

#### **4. Compliance with Approved Parameter Plans and Design Code**

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

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

- Site Location Plan Ref: 21.042.011.P1 26th September 2022
- Land Use Parameter Plan Ref: 21.042.0110.P1 26th September 2022
- Phasing Parameter Plan Ref: 21.042.0115.P2 26th September 2022
- Density Parameter Plan Ref: 21.042.0111.P1 26th September 2022
  
- Heights Parameter Plan Ref: 21.042.0112.P1 26th September 2022
- Open Space Parameter Plan Ref: 21.042.0113.P1 26th September 2022
- Road Hierarchy and Access Plan Ref: 21.042.0114.P2 26th September 2022

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

#### **5. Safeguarding of Land for Sittingbourne Northern Relief Road**

No development shall take place in the areas shown as Phases 3 and 4 on the hereby approved Phasing Parameter Plan (Drawing Reference: 21.042.0115.P2) whilst safeguarding for the Sittingbourne Northern Relief Road (Policy AS1) remains in an adopted Local Plan for the area.

Reason: To comply with local plan policies MU2 and AS1.

#### **6. Adjustment of Approved Number of Dwellings on Planning Approval of Sittingbourne Northern Relief Road**

Notwithstanding Phasing Parameter Plan Ref: 21.042.0115.P2 26th September 2022 in the event that planning permission is granted for the Sittingbourne Northern Relief Road then in the event that:

- a) The routing is within land shown as phase 4 than no development shall take place within the land shown as phase 4 and the total number of dwellings approved shall be reduced by 103.
- b) The routing is within land shown as phase 3 than no development shall take place within the land shown as phase 3, and the reserved matters application for phase 4 shall adjust the layout to account for the land take of the approved Sittingbourne Northern Relief Road Corridor. The total number of approved units shall be reduced by 168.

Reason: To comply with local plan policies MU2 and AS1.

## **7. Church Road Dwellings Access**

No vehicular access link, other than for emergency vehicles, shall be provided to allow a vehicular connection between Swale Way and Church Road.

No more than 6 dwellings shall be served from the vehicular access on Church Road.

Reason: To ensure no through traffic harming the rural lane of Church Road.

## **8. Pre-commencement: Ecological Mitigation Strategy**

Prior to commencement of any works on any phase other than the extension of Swale Way and prior to any other clearance works, with the first reserved matters application, a detailed ecological mitigation strategy (EMS), based on the draft EMS provided for in shall be submitted to, and approved in writing by, the local planning authority. The strategy shall:

The content of the EMS will be based on the outline ecological mitigation strategy (BioScan May 2022 (provided in the Environment Statement Volume 4, Appendix C3),) and contain the following:

- 1) Purpose and objectives for the proposed works:
- 2) Detailed design(s) and/or working method(s) necessary to achieve stated objectives;
- 3) Extent and location of proposed works, including the identification of a suitable receptor site, shown on appropriate scale maps and plans;
- 4) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- 5) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake/oversee works; · Use of protective fences, exclusion barriers and warning signs, and;

- 6) Disposal of any wastes for implementing work.

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

Reason: To ensure the implementation of the mitigation measures included in the scheme Environment Statement. This is a pre-commencement condition as these matters go to the heart of the planning consent.

### **9. Pre-commencement: Wider Landscape Management and Access Plan**

Prior to commencement of any works on any phase other than the extension of Swale Way, a landscape management and access plan for the whole of the remaining parts of the MU2 site within the applicant's ownership shall be submitted to and approved by the local planning authority. This shall show the improvements to biodiversity landscape and to public access to this land as required by adopted local plan policy MU2.

Reason: To comply with adopted local plan policy MU2. This is a pre-commencement condition as it goes to the heart of this plan policy.

### **10. Pre-commencement: Landscape Management and Maintenance**

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

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

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

Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five

years of planting, or ten years for the structural planting along the southern and eastern boundaries, shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interest of biodiversity and visual amenities. This is a precommencement condition as these matters go to the heart of the planning consent.

## 11. Pre-Commencement: Biodiversity Net Gain

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

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

Any off site credits must demonstrate in the biodiversity gain plan

- That it is on land made available by a site provider with sufficient rights to the land;
- That it will be delivered by a specified person or body considered fit and proper to undertake the enhancement works;
- The land will be suitably managed to meet the required enhancement;
- That Work commenced 30 January 2020 or later;
- That the enhancement will be maintained for at least 30 years after the completion of those works;
  
- That the credit is measured using the most up to date biodiversity metric against a baseline metric assessment;
- That the credit may be allocated to development in accordance with the terms of the conservation covenant or planning obligation;
- That the credit is available to be allocated to this development;
- That it complies with rules on additionality and stacking including on protected sites;
- That it is in England, and;
- Monitoring and reporting for that site over the 30 year period.

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

## 12. Pre-Commencement Condition: Air Quality Offsetting Emissions

No development shall commence on any phase until the developer has submitted a scheme detailing and where possible quantifying what measures or offsetting schemes are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The report should be submitted to and approved by the Local Planning Authority, prior to development and its recommendations so implemented.

[The developer should have regard to the DEFRA guidance from the document Low Emissions Strategy -using the planning system to reduce transport emissions January 2010.

Reason: to mitigate against predicted emissions.

## 13. Pre-Commencement Condition: Archaeological Investigation

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 on those parts of the site which have not been subject of brickearth extraction, 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.

## 14. Pre-commencement: Construction Environment Management Plan

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

- Hours of working and timing of deliveries
- An indicative programme for carrying out the works Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings

- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off-road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway • Routing of construction and delivery vehicles to / from site, including the number of vehicles
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- Provision of wheel washing facilities
- Temporary traffic management / signage
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works

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

### **15. Pre-commencement: Construction Logistics Plan**

Prior to the commencement of the development, a Construction Logistic Management Plan shall be submitted to and approval in writing by the Local Planning Authority. to include the following:

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

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



**16. Pre-Occupation: Completion of Swale Way Access to the Site**

None of the hereby approved units shall be occupied prior to the completion of the extension of Swale Way to the residential access to the site.

Reason: To connect the scheme to the Kent Highways system and to comply with allocation MU2 of the adopted Swale local plan.

**17. Pre-Occupation: Phase III Emergency Vehicle Access Gates**

Prior to occupation of any of the units in phase II details of the emergency services/pedestrian/cycling only gate between phase IIS and the Heron Way estate to the West shall be submitted to an approved by the local planning authority, and these approved details shall be implemented.

Reason: To prevent through vehicular access onto the unadopted roads of the Heron Way estate..

**18. Pre-Occupation: Prow Improvement Scheme**

No units of phase I shall be occupied until a scheme of improvement for the public right of way crossing the site, including associated landscaping, has been submitted to and approved by the local planning authority and so implemented.

Reason: To align with the programme of works to PROW included in the section 106 agreement.

**19. Pre-Occupation: Phase 4 Emergency Vehicle Access Gate**

Prior to occupation of any of the units in phase 4 details of the emergency services/pedestrian/cycling only gate between phase 4 and the units South East of this gate accessing onto Church Road shall be submitted to an approved by the local planning authority, and these approved details shall be implemented.

Reason: To prevent through access onto the designated rural land of Church Road.

**20. Pre-Occupation Condition: Great East Hall Way Bus Gate and Bus Loop**

No units shall be occupied within phases 2 through 4 of the development until details of:

- a) An induction bus gate onto the Great East Hall Way/Oak Road Bus Road
- b) Details of bus access onto the internal loop road with bus bays and stop facilities

Have been approved by the local planning authority, in consultation with the highways authority, and the approved details implemented as approved.

Reason: To ensure sustainable development by extension of the 349 bus route to this site.

### **21. Pre-Occupation Condition: Tonge Road Pedestrian Crossing**

No units shall be occupied within phases 2 through 4 of the development until the Tonge Road pedestrian Crossing has been implemented.

Reason: To ensure sustainable connections from the site in line with plan allocation MU2.

### **22. Restriction of Permitted Development Rights**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order), no development shall be carried out within Classes B and C and of Part 1 of Schedule 2 of that order

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

### **23. Details of Parking and Cycle Parking**

The reserved matters for layout submitted pursuant to condition (1) above shall include details of the provision of vehicle parking and permanent retention of secure covered cycle parking facilities shall have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with the approved details.

Reason: In the interests of highway safety and active travel.

### **24. Pre-Occupation: High Speed Broadband**

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

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

### **25. Pre-Occupation: Completion of Roads and Footways**

Prior to first occupation of each of the dwellings hereby approved, the following works between a dwelling and the adopted highway shall have been completed: (a)Footways and/or footpaths, with the exception of the wearing course; (b)Carriageways, with the

exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interests of highway safety and amenity.

## **26. Pre-Commencement: SUDS/Drainage**

Development shall not begin in any phase until the layout reserved matters details submitted as required by Condition 1 are approved for that phase with a detailed sustainable surface water drainage scheme for the site submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment & Outline Surface Water Drainage Strategy prepared by RSK dated May 2022.

No development shall not take place and as approved have:

- 1) demonstrated that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout.
- 2) demonstrated that an effective outfall for surface water is provided for the development layout. This information may include details of surveys of watercourses and culverts and / or details of any works that may be necessary to deliver an effective outfall for surface water.
- 3) The drainage scheme shall also demonstrate (with reference to published guidance):
- 4) that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- 5) 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.

The development hereby permitted shall not be occupied until a Verification Report, pertaining to been submitted to and approved by the Local Planning Authority. 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 the development is served by satisfactory arrangements for the disposal of surface water, in line with National Policy (NPPF) 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.

### **27. Pre-occupation: lighting details**

Prior to the occupation of any of the hereby approved units details of all external lighting shall be submitted to and approved by the local planning authority and the approved details so implemented..

Reason: To ensure no unacceptable impact on any protected species of bat.

### **28. Pre-Commencement: Land Contamination**

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

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

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

Reason: To ensure the development does not create risks to health and safety from contamination.

### **29. Unexpected Land Contamination**

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

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

The closure report shall include details of;

a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To ensure the development does not create risks to health and safety from contamination.

### **30. Wheelchair Accessible Dwellings**

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

Reason: To ensure inclusive design.

### **31. Noise Insulation (phases 2, 3 and 4 Northern Relief Road/Chatham Main Line)**

Prior to the first use or occupation of the any [part of the development within phases 2, 3 and 4 as hereby permitted, the building shall have been constructed or modified to provide sound insulation against externally generated noise from the Sittingbourne Northern Relief Road and/or the Chatham Main Line to standards in the Swale Borough Council's Noise and Vibration Planning Technical Guidance Document (May 2020) in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

Reason: To ensure that the development is insulated to an acceptable level in accordance with national Policy and local guidance.

### **32. Construction Hours of Working**

No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730-1800 hours, Saturdays 0800–1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

### **33. Piling Hours of Working**

No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:- Monday to Friday 0900-1700 hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

## INFORMATIVES

### i. Highways

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil. Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority. Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process. Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site. Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highwayspermissionsand-technical-guidance> . Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

### ii. Public Rights of Way

The applicant will need to apply to divert the path ZR189 through the Town and Country Planning Act 1990, where the existing route will be affected by the development. We advise the applicant to engage directly with KCC PROW for details of this process in order to ensure the diversion and therefore development are completed in a legal and timely manner. However, the applicant is reminded that the granting of planning consent does not entitle the developer to obstruct PROW and the existing route must be kept open and safe for all users until such time as the Order necessary for its diversion has been confirmed and the new route provided. A temporary closure may be possible; however, this is subject to a suitable alternative route approved by KCC PROW and Access Service in advance. Again, the route should be accommodated within an open green corridor and the route should be carefully designed so that the right of way is safe, secure and attractive to use. KCC PROW and Access Service will need to approve this proposal

- No furniture, fence, barrier or other structure may be erected on or across Public Rights of

Way without the express consent of the Highway Authority

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

### **iii. Code of Development Practice**

As the development involves demolition and / or construction, I would recommend that the applicant is supplied with the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected. This can be found at:

<https://tunbridgewells.gov.uk/environmental-code-of-development-practice>

### **iv. Surface Water Disposal**

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

### **v. Crime Prevention**

Please note the advice of the police crime prevention design advisor in the detailed design of the scheme.

### **vi. SAMMs**

This permission has only been granted after receipt of a financial contribution to the Strategic Access Management and Monitoring Strategy in respect of the nearby Special Protection Area.

### **vii. Sewers**

The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk) in order to progress the required infrastructure.

### **viii. Broadband**

Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that



Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high-speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact [broadband@kent.gov.uk](mailto:broadband@kent.gov.uk)

#### **ix. SUDS**

The following points should be noted wherever infiltration drainage (such as soakaways) is proposed at a site:

- Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks. Clean uncontaminated roof water
- should drain directly to the system entering after any pollution prevention methods.
- No infiltration system should be sited in or allowed to discharge into made ground, land impacted by contamination or land previously identified as being contaminated. There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of the system and the water table.
- A series of shallow systems are preferable to systems such as deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater.
- Where infiltration SuDS are proposed for anything other than clean roof drainage in a Source Protection Zone 1, a hydrogeological risk assessment should be undertaken, to ensure that the system does not pose an unacceptable risk to the source of supply.

Given the impermeable nature of the site we will expect for clarification to be provided as part of the detailed design submission as to how surface water from the 'undeveloped areas' is prevented from entering the positively drained network and exceeding its designed capacity. Any feature capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse' and we would urge the applicant to contact us prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function. Any works that have the potential to affect the watercourse or ditch's ability to convey water will require our formal flood defence consent (including culvert removal, access culverts and outfall structures). Please contact [flood@kent.gov.uk](mailto:flood@kent.gov.uk) for further information.

#### **x. Contaminated Soils**

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes: Duty of Care Regulations 1991 Hazardous Waste (England and Wales) Regulations 2005 Environmental Permitting (England and Wales) Regulations 2010 The Waste (England and Wales) Regulations 2011 Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at <https://www.gov.uk/government/organisations/environment-agency> for more information.

**xi. Breeding Birds**

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

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

Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present. Ecological Enhancements In alignment with paragraph 175 of the National Planning Policy Framework 2019, the implementation of enhancements for biodiversity should be encouraged. The ecology report recommends suitable enhancements, such as hedgehog gaps in closeboard fencing and provision of bird boxes. We also highlight that any landscaping should consist of native species only. To secure the implementation of enhancements, we advise that a condition is attached to planning permission if granted. [Biodiversity Net Gain Condition included]

**xii. Highways Approvals and Consents**

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/whatwe-look-after/highway-land/highway-boundary-enquiries>

## **Appendix 1 Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017**

This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). 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. 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. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development. In considering the European site interest, Natural England (NE) advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.

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

NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), your officers conclude that off-site mitigation is required. In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (normally to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. Your officers 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 Page 30 Report to Planning Committee – 10 March 2022 ITEM 2.1 (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. The

Agent has confirmed agreement to pay the SAMMs fee subject to the outcome of the Committee.

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.

**Plans, Drawings and Photos**

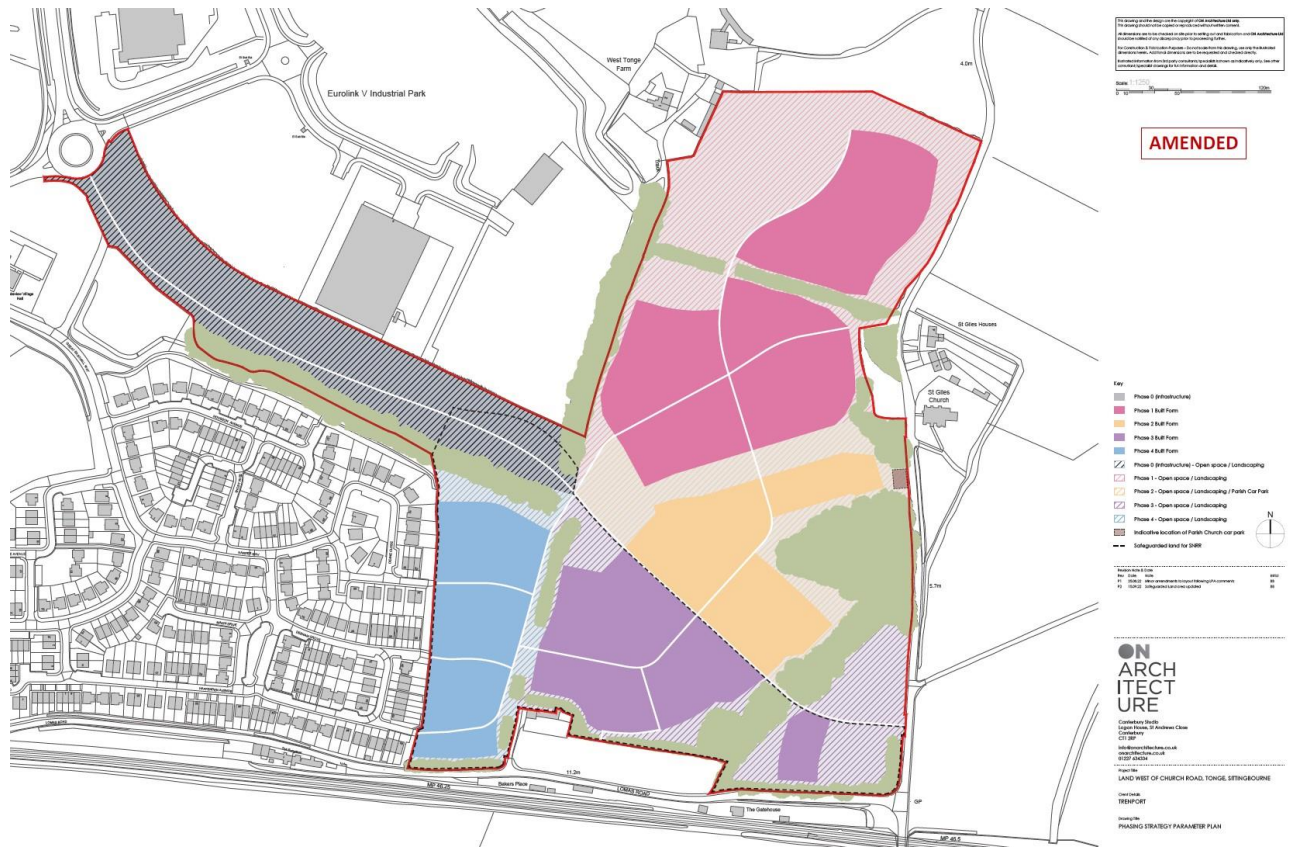
**Illustrative Masterplan**



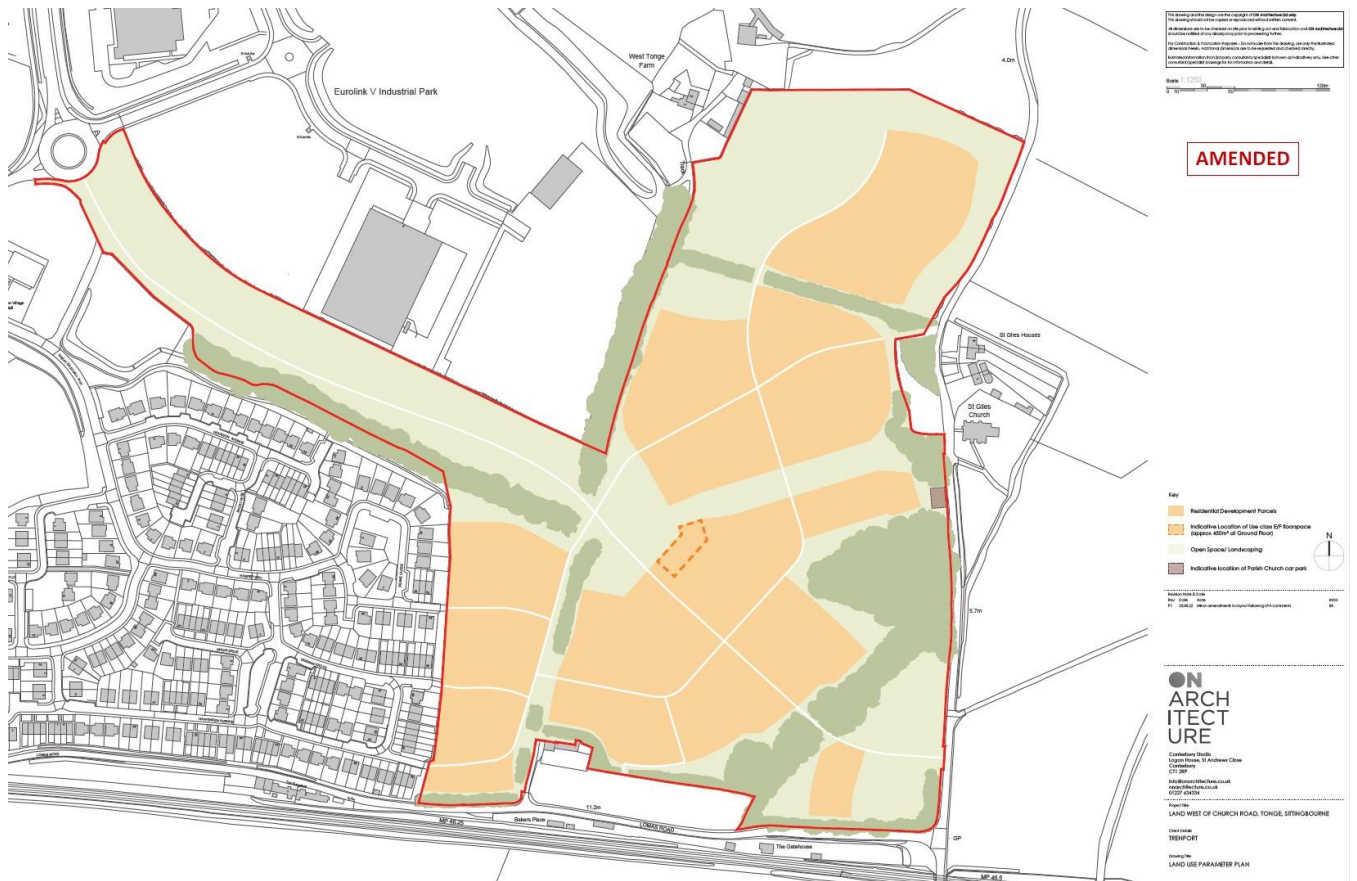
### Road Hierarchy and Access Parameter Plan



# Phasing Parameter Plan

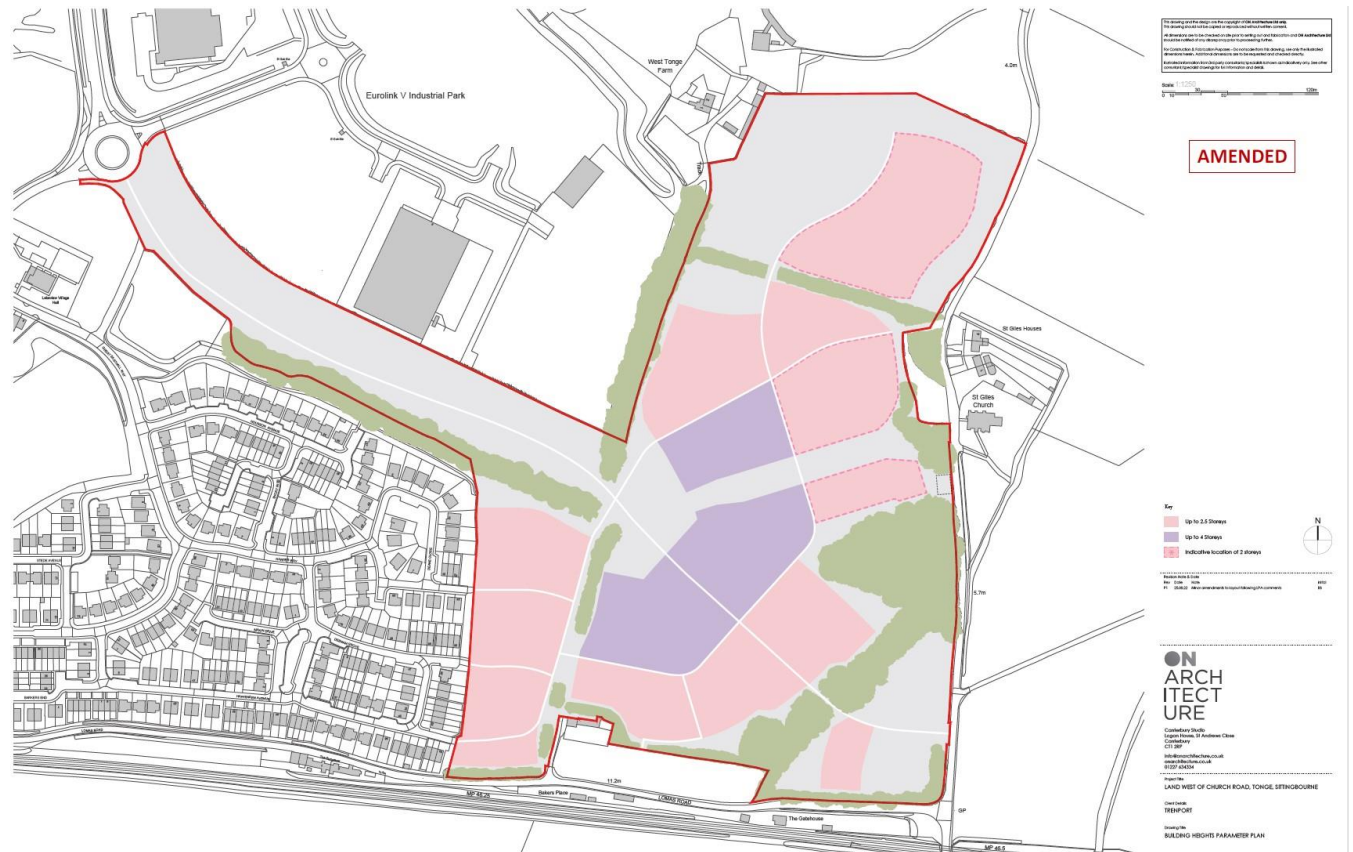


### Land Use Parameter Plan





### Building Heights Parameter Plan



### Parcel Densities Parameter Plan



### Open Space Parameter Plan





South East Corner of site

## Late Sheets Jan 25<sup>th</sup> Special Committee

### Item 2.2 REFERENCE NO - 22/502834/EIOUT

#### Add in consultations

- KCC Archaeology – No objection subject to investigation condition (non brickearth areas)
- Lower Medway Internal Drainage Board (07.10.2022) – No Objection subject to non planning drainage consents
- Southern Water (20.07.2022) – No objection

Para 4.9 replace class F educational with the more correct 'Learning and Non-residential institutions / Local Community uses'

Para 4.17 delete 'evenly' – the phasing is set out in para 12.69

Para 10.11 – this states the Mineral Officer has "objection", replace with 'has withdrawn objection'

Para 12.16 Add 'Part of Phase 0 (Swale Way) is within the safeguarded area, '

Reason for above changes: To correct small omissions and typographical errors

12.89 amend as follows

~~'It is too soon to say which alignment option would be preferred, suffice to say the northern option is most costly and the central option both would have unacceptable heritage impacts on Tonge Conservation Area and two areas of open space, and force an alignment option for any possible southern relief road which is most harmful in environmental terms (cutting across two dry valleys in an area of great landscape importance) which may outweigh the noise and environmental benefits of relieving A2 traffic through Bapchild. Although all three options have negative heritage impacts (whether the Grade I Bapchild Church, Grade I Tonge Church, Tonge Conservation Area, Grade II \*Bexs Farm etc. etc. depending on which option), it is a question of balance and whether the positive benefits outweigh any residual harm on heritage impacts and their setting. This leaves the western option as the emerging favoured option. In terms of it's the option of the western alignment specific alignment it is a careful balance of mitigating noise impact on the Eden Way estate and avoiding an~~

alignment which segregates the new Stones Farm open space. The applicant has been requested to show an indicative alignment to the railway line for the western/central option (both of which share an alignment north of the railway), ~~and include a phasing plan which would allow an alignment of a northern option SNRR heading eastwards not southwards towards the Southern end of Church Lane in order to minimise impacts on the Grade I listed Tonge Church and to the East the Grade II\* listed Bex Farm~~ As a result there would be no prejudice to any of the possible options.

To avoid pre-determination of issue of the route south of the railway.

Replace **recommendation** with

Conclusion: RECOMMENDATION GRANT subject to the conditions as set out below and the signing of a suitably worded s106 agreement to secure the developer contributions as set out below. Delegated authority is also sought to amend condition wording and s106 clauses as may reasonably be required.

On advice from legal services to ensure consistency and practice.

Proposed **Heads of Terms:**

Update line Item **Refuse Bins:**

1 x 180ltr green refuse bin @ £46.60 per bin

1 x 240ltr blue recycling bin @ £46.60 per bin

1 x 23ltr black food bin @ £10.80 per bin

1 x 5ltr kitchen caddy @ £5.40 per bin

Total cost for a full set of bins for a house is £109.40

For flats it:

1 x 1100ltr refuse bin per 5 flats @ £451.80 per bin

1 x 1100ltr recycling bin per 5 flats @ £451.80 per bin

1 x 140ltr food bin per 5 flats @ £81.30 per bin

Total cost for a full set of bins for 5 flats is £984.90 (or £196.98 per flat)

Reason for change: To reflect latest costing from Mid Kent Waste

Replace ~~“Please note that these figures are to be index linked by the BCIS General Building Cost Index from April 2020 to the date of payment (Apr-20 Index 360.3) Payments to be made prior to unit occupation.”~~ with “Please note that these figures are to be appropriately index linked and subject to appropriate triggers as may be agreed” as the 2020 baseline applies only to KCC figures

On advice from legal services to ensure consistency and practice.

Proposed **Heads of Terms:**

SNRR HOT's – It currently states – “No planning application for reserved matters on phases II or four shall take place until the adoption of a revised local plan for Swale”.

Replace ~~phase II~~ with Phase III – correction of typographic error

For **repairs to St Giles Church** page 169

Heritage England have stated

*“I am writing to confirm that Historic England strongly endorse [conservation officers] position that the [original 50k] financial offer made for St Giles is wholly insufficient. This is for several reasons.*

*While the amount offered would cover some works to help address some of the reasons for the church's inclusion on Historic England's Heritage at Risk Register, it would not cover the cost of providing essential facilities to help sustain the building in its optimum viable use as a place of Worship. This is a very serious concern for Historic England.*

*It is well accepted that small rural parish churches need facilities to continue in use as a place of worship, as they are essential to make the building attractive and practical to use. Church's without heating and essential facilities like a kitchen and WC are often*

*those at greatest risk of closure. Where essential facilities are provided, there is good evidence that this has reversed the fortunes of the church by helping it to function as the focus of a rural community.*

*The PCC's report on St Giles, following a meeting late last year, made it clear that the church has a very small congregation and that there is a real danger of closure unless funds are found to develop it as a focus for community activity alongside worship. Even if repairs are carried out, there is no guarantee the church would be removed from our register if the building's long-term future is in question.*

*It also seems short-sighted to fund a car park and some repairs to a church when there is a question about its long-term sustainability as a place of worship and I suggest grounds for saying that the proposed contribution does not go far enough. In place making terms it is also a real missed opportunity for the developer because the church has the potential, through funds provided by the developer, to be a focus for the new community. In that respect, I agree that exploring whether some of the low key community uses provided by the development, could be within the church. This would reinforce St Giles role within the community and provide it with a potential for an on-going revenue to support its continued conservation.*

*Funding the full package of works requested by the PCC must therefore be a priority for the applicant. A fuller package of works would also represent a greater heritage benefit that applies to the weighing exercise in paragraph 202 of the NPPF and help ensure the long-term conservation of a grade I listed building"*

Following this the applicant has now agreed to the full £195,960 contribution.

Replace 'Quiet Lane Traffic calming scheme on Lomas Road on Church Road'



**PLANNING COMMITTEE – 5 June 2023****DEFERRED ITEM**

Report of the Head of Planning

**DEFERRED ITEMS**

Minutes show that this Item as being deferred from the Meeting of 25 January 2023

<b>DEF ITEM 2 REFERENCE NO - 22/503418/OUT</b>		
<b>APPLICATION PROPOSAL</b>		
Outline Application with access matters sought for the development of up to 16 dwellings and all necessary supporting infrastructure including internal access roads, footpaths and parking, open space and landscaping, drainage, utilities and service infrastructure works. (Matters of appearance, landscaping, layout and scale are reserved for future considerations; except for access to Tonge Road.)		
<b>ADDRESS</b> Land at Tonge Road Sittingbourne Kent ME9 9BD		
<b>RECOMMENDATION</b> Approval subject to the prior completion of a s106 Planning Obligation to secure the heads of terms set out in the report and the imposition of conditions also set out in this report with delegated authority given to officers to negotiate the s106 agreement as necessary and to amend and add to the list of conditions as appropriate		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The site lies within the extended settlement boundary for Sittingbourne to the South of Tonge Road. The development of such a site is in line with the local plan policy and strategy. The scheme includes widening of Tonge Road and provision of footways along the southern part of Tonge Road towards where it becomes Lomas Road and contribute towards a quiet road scheme on Lomas Road. The means of access and quantum of development as shown in the illustrative design are considered acceptable.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Cumulative impacts of three close by schemes sharing infrastructure or mitigation schemes. No call in.		
<b>WARD</b> Murston	<b>PARISH/TOWN COUNCIL</b> Within Murston Parish which no longer has a Parish Council.	<b>APPLICANT</b> Fenrose Ltd <b>AGENT</b> Carter Jonas LLP
<b>CASE OFFICER:</b> Matt Duigan		
<b>DECISION DUE DATE</b> 30 June 2023	<b>PUBLICITY EXPIRY DATE</b> 28/10/22	<b>CASE OFFICER</b> Matt Duigan

## **1. INTRODUCTION**

- 1.1. This application was initially reported to Planning Committee on 25 January 2023 with a recommendation for approval. The item was deferred for members of the planning committee to undertake a site visit.
- 1.2. The site visit was subsequently undertaken on 21 February 2023. The Minutes from the site visit are attached at Appendix 2 of this report, as is the original Committee Report (see Appendix 1).

## **2. POST SITE VISIT RESPONSE**

- 2.1. Concerns were raised at the site visit over the possibility of residents from the proposed development parking directly on Tonge Road. Following the site visit advice has been received from KCC Highways who consider that it would be possible to introduce waiting restrictions to prevent this.
- 2.2. To address this, the Applicant should be required (by a condition of any planning permission) to apply for the associated Traffic Regulation Order (TRO), and to implement the signing and lining of this prior to the occupation of any dwelling, should the TRO application be successful. This would ensure that the TRO process is carried out at the developer's cost, and that any restrictions approved are put in place before residents become accustomed to parking on-street.

## **3. OTHER POST SITE VISIT MATTERS**

- 3.1. Further advice has been received from KCC Highways to clarify requirements relating to highway related conditions and planning obligations.
- 3.2. A summary of the additional advice from KCC Highways is set out below:
  - The Highway Authority do not seek a contribution towards a pedestrian crossing (£25,000) at Tonge Road, as it is not considered that the development would generate sufficient pedestrian activity across it.
  - Additionally, no request has been made by the Highway Authority for contributions towards a quiet lanes scheme on Lomas Road (£7,000). It is not considered that the proposed development of 16 dwellings would materially increase traffic flows or pedestrian/cycle activity along Lomas Road above current levels to justify the provision of a scheme.
  - The Highway Authority has not identified a need for funding towards the pedestrian crossing or the Lomas Road Quiet Lane scheme through the current application. Nor has the Highway Authority approved any designs to confirm whether suitable improvements can be delivered. As such KCC Highways would not be prepared to accept funds to complete the highway works.
  - Offsite highway works are required to mitigate the impact of the development and these would be delivered by the developer themselves, secured through Section 278 Agreement. This will be the case with respect to the widening of Tonge Road to 5.5m across the site frontage. A condition should be imposed to secure this.

- 3.3. The off-site highway works and waiting restrictions are necessary and conditions are recommended to secure these on any consent.
- 3.4. Given that the KCC Highway officer has advised that the contribution towards the quiet lane and pedestrian crossing are not necessary to make the development acceptable in planning terms, and that they would not be fairly and reasonably related in scale and kind to the development, the obligations do not comply with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). Nor would these two obligations meet the tests set out at Paragraph 57 of the NPPF (2021).
- 3.5. An amendment is recommended to the Heads of Terms set out in section 10 of the original report to remove the following obligations:
- Pedestrian crossing for Snipeshill Footpath - £25,000
  - Quiet Lane Scheme on Lomas Road - £7,000
- 3.6. The SAMMS tariff is reviewed each year and index linked in line with inflation and the new tariff is to be applied from 1st April each year. The new 2023/24 SAMMS tariff figure is £314.05 per dwelling, for this development a contribution of £5,025 is required. A further amendment is recommended to the Heads of Terms set out in section 10 of the report to add the following obligations:
- Adjust the SAMMS contribution to £5,025
  - The inclusion of a monitoring fee of £8,818.71
  - Correct the total financial contributions, being: £ 293,957 + £8,818.71 (monitoring fee) = £302,775.63

#### 4. REVISED CONDITIONS AND PLAN

- 4.1. Officers also recommend that the following amendments be made to the recommended conditions and plan numbers:

##### Conditions

#### 7) Completion of Roads and Footways

Prior to first occupation of each of the dwellings hereby approved, the following works between a dwelling and the adopted highway shall have been completed: (a)Footways and/or footpaths, with the exception of the wearing course; (b)Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays (**with no obstructions over 0.9metres above carriageway level within the splays**), street lighting, street nameplates and highway structures (if any).

**Thereafter the works shall be retained and maintained for the life of the development.**

Reason: In the interests of highway safety and amenity.

**[Planning Officer comment: KCC Highways requested clarity in the condition over the requirement for visibility splays and for works to be maintained for the life of the development.]**

**11) Details of Parking and Cycle Parking**

The details submitted pursuant to condition (1) above shall include details of the provision of vehicle **manoeuvring**, parking **including Electric Vehicle Charging Points** and permanent retention of secure covered cycle parking facilities shall have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with the approved details.

Reason: In the interests of highway safety and active travel.

**[Planning Officer comment: KCC Highways requested clarity in the conditions over the need for manoeuvring areas and Electric Vehicle Charging Points.]**

**14) Pre-commencement: Land contamination**

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

1) A preliminary risk assessment which has identified all previous uses- potential contaminants associated with those uses- a conceptual model of the site indicating sources, pathways and receptors- potentially unacceptable risks arising from contamination at the site.

2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

**On completion of the works** a Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in (3). This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

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

**[Planning Officer comment: The change clarifies that the Closure Report verifying contaminants have been remediated is required on completion.]**

**18) Pre-Commencement: Construction Environment Management Plan**

Prior to the commencement of the development, a Construction Environment Management plan shall be submitted to and approval in writing by the Local Planning

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

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

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

**[Planning Officer comment: The amendment removes the duplication of the same requirements which are set out in Condition 19.]**

## **20) ~~Completion of Access and Quiet Lane Scheme~~**

~~The access shown on the hereby approved plans, and the Lomas Road Quiet Lane scheme included in the accompanying planning obligation shall be completed prior to occupation of any of the herby approved units.~~

Gradient of the access to be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

Reason: To ensure proper and safe access.

**[Planning Officer comment: KCC Highways advice is that the delivery of the Lomas Road Quiet Lane is not required, as such this element of the condition has been deleted.]**

**New conditions:**

Prior to above ground works, plans and details setting out the design and specification for the highways works indicated on drawing TRS-WSP-00-XX-DR-TP-0001 Rev P04 to provide a footway and 5.5m wide carriageway along the site frontage shall be submitted to and approved in writing by the Local Planning Authority.

No dwelling hereby approved shall be occupied on the development site until the approved highway works have been carried out and fully implemented to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

Prior to above ground works, an application shall be made for a Traffic Regulation Order to introduce waiting restrictions on both sides of Tonge Road between All Saints Road and the Eastern end of the development site. Thereafter the development shall be implemented in accordance with the outcome of that Traffic Regulation Order application.

Reason: In the interests of highway safety and amenity.

**[Planning Officer comment: KCC Highways advice is that the offsite highway works should be secured by way of a condition.]**

- 4.2. In addition, a plan relating to the access into the site has been corrected, this revised plan has been approved by KCC Highways who advise that the plan TRS-WSP-00-XX-DR-TP-0001 Rev P03 be replaced by TRS-WSP-00-XX-DR-TP-0001 Rev P04.

**5. CONCLUSION**

- 5.1. Subject to the changes to planning obligations and condition set out above, the development proposals are considered to remain acceptable in terms of officer's recommendation and that the initial recommendation for approval presented to Committee remains justified.

**6. RECCOMENDATION**

GRANT subject to conditions and section 106 heads of terms as set out below. Delegated authority is also sought to amend condition wording and s106 clauses as may reasonably be required.:

## Proposed Heads of Terms

	<b>Per house (x 16)</b>	<b>Total Assumes 100% Houses</b>	<b>- Paid to</b>	<b>Project</b>
<b>Primary Education</b>	£6,800.00 per applicable unit	£108,800.00	KCC	Towards a new 2FE Primary School serving this development and/or provision within the planning group

				('applicable' means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).
<b>Primary School Land</b>	£2,026.22 per applicable unit	£32,419.52	KCC	Towards the land acquisition costs of a new Primary School serving this development  ('applicable' means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).
<b>Secondary Education</b>	£5,176.00 per applicable unit	£82,816.00	KCC	Towards a new Secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in Sittingbourne nonselective and Sittingbourne & Sheppey selective planning groups ('applicable' means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).
<b>Secondary School Land</b>	£2,635.73 per applicable unit	£42,171.68	KCC	Towards the land costs of the new Secondary School in Northwest Sittingbourne (Local Plan Policy MU1) and/or new Secondary Schools in Sittingbourne nonselective and Sittingbourne & Sheppey selective planning groups.  ('applicable' means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).
<b>Community Learning</b>	£16.42	£262.72	KCC	Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre and outreach provision to increase capacity in the service.
<b>Youth Service</b>	£65.50	£1,048.00	KCC	Contributions requested towards additional equipment and resources for the Youth service to provide outreach services in the vicinity of the development.
<b>Library Service</b>	£55.45	£887.20	KCC	Contributions requested towards additional services, resources, and stock at Sittingbourne Library serving the development.

<b>Social Care</b>	£146.88	£2,350.08	KCC	Towards Specialist care accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough.
<b>Waste Management Facilities</b>	£183.67	£2,938.72	KCC	Towards capacity at HWRCs and WTS' within the Borough.
<b>Affordable Housing</b>	Provision in kind on or off site.	1 First home, 1 social rented home	On site	Provision in kind on or off site.
<b>Primary Care</b>	£360.00	£5,760	CCG	Towards GP provision in the Sittingbourne Area
<b>Sports Provision</b>	£593.00 per dwelling.	£9,488	SBC	Towards improving provision and facilities at East Hall Recreation Ground.
<b>SPA Strategic Access Management and Monitoring Strategy</b>	£314.05	£5,025	SAMMs	SAMMS management.
<b>Monitoring fee</b>		£8,818.71	SBC	To cover the cost monitoring and ensuring the delivery of planning obligations.
<b>Total</b>		£302,775.63		£ 293,957 + £8,818.71 (monitoring fee) = £302,775.63.

Please note that these figures are to be index linked by the BCIS General Building Cost Index from April 2020 to the date of payment (Apr-20 Index 360.3). Payments to be made prior to unit occupation.



**CONDITIONS to include****1. Time Limit – Outline Schemes**

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

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

**2. Time Limit – Reserved Matters**

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

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

**3. Reserved Matters**

Prior to or contemporaneous with the submission of any reserved matters under condition (1) for layout referred to in condition the following shall be submitted to and approved by the local planning authority: finished site levels, proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture.

Prior to or contemporaneous with the submission of any reserved matters under condition (1) for appearance referred to in condition the following shall be submitted to and approved by the local planning authority: finished site levels: the palette of building materials and elevational designs.

Prior to or contemporaneous with the submission of any reserved matters under condition (1) for landscaping referred to in condition the following shall be submitted to and approved by the local planning authority: details of both hard and soft landscape works. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials.

Prior to or contemporaneous with the submission of any reserved matters under condition (1) for heights referred to in condition the following shall be submitted to and approved by the local planning authority: Heights above ordnance datum including completion of finished levels.

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

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

#### 4. Completion in Accordance with Approved Drawings and Parameters

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

- Site Plan 48943\_002A 11.07.2022
- Proposed Access Arrangements TRS-WSP-00-XX-DR-TP-0001 Rev P04

The reserved matters applications shall accord with the following parameters

- Parameter Plan 48943\_003B 22.09.2022

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

#### 5. Pre-commencement: Biodiversity Net Gain

Development shall not commence on until there has been a biodiversity gain plan submitted to and approved by the local planning authority; to demonstrate how the proposal shall contribute to the development achieving a post development biodiversity value with be a minimum of 10% higher than site pre-development biodiversity value. The calculation shall be in accordance with biodiversity metric 3.1 and based on the biodiversity net gain calculations submitted to Kent County Council Ecology and based on the biodiversity net gain calculations of 1st July 2022. The post development biodiversity value may include off-site biodiversity gain under the control of the applicant and purchased biodiversity credits. This gain shall thereafter be maintained for a minimum period of 30 years in line with the biodiversity gain plan.

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

Any off-site credits must demonstrate in the biodiversity gain plan

- That it is on land made available by a site provider with sufficient rights to the land;
- That it will be delivered by a specified person or body considered fit and proper to undertake the enhancement works;
- The land will be suitably managed to meet the required enhancement;
- That Work commenced 30 January 2020 or later;
- That the enhancement will be maintained for at least 30 years after the completion of those works;
- That the credit is measured using the most up to date biodiversity metric against a baseline metric assessment;
- That the credit may be allocated to development in accordance with the terms of the conservation covenant or planning obligation;
- That the credit is available to be allocated to this development;
- That it complies with rules on additionality and stacking including on protected sites;
- That it is in England, and;
- Monitoring and reporting for that site over the 30 year period.

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

## 6. Pre-Commencement: Landscape Management and Maintenance

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

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

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

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

Reason: In the interest of biodiversity and visual amenities.

## 7. Completion of Roads and Footways

Prior to first occupation of each of the dwellings hereby approved, the following works between a dwelling and the adopted highway shall have been completed: (a)Footways and/or footpaths, with the exception of the wearing course; (b)Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, (with no obstructions over 0.9metres above carriageway level within the splays), street lighting, street nameplates and highway structures (if any).

Thereafter the works shall be retained and maintained for the life of the development.

Reason: In the interests of highway safety and amenity.

## 8. Pre-occupation: lighting details

Prior to the occupation of any of the hereby approved units details of all external lighting shall be submitted to and approved by the local planning authority and the approved details so implemented.

Reason: To ensure no unacceptable impact on any protected species of bat.

## 9. Details of Materials

Notwithstanding the submitted plans, no development beyond the construction of foundations shall take place until details of the external finishing materials of the dwellings has been submitted to and agreed in writing by the Local Planning Authority.

The details shall include brick, roof tiles and front wall and gate materials. The details as approved shall thereafter be implemented.

Reason: In the interests of visual amenities.

#### **10. Restriction of Permitted Development Rights**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order), no development shall be carried out within Classes B and C and of Part 1 of Schedule 2 of that order

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

#### **11. Details of Parking and Cycle Parking**

The details submitted pursuant to condition (1) above shall include details of the provision of vehicle **manoeuvring**, parking **including Electric Vehicle Charging Points** and permanent retention of secure covered cycle parking facilities shall have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with the approved details.

Reason: In the interests of highway safety and active travel.

#### **12. Pre-Commencement: High Speed Broadband**

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

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

#### **13. Pre-Commencement: SUDS/Drainage**

No development shall take place until the layout reserved matters details submitted as required by Condition 1 and as approved have:

- 1) A sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority 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.
- 2) demonstrated that an effective outfall for surface water is provided for the development layout. This information may include details of surveys of watercourses and culverts and / or details of any works that may be necessary to deliver an effective outfall for surface water.

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.

The development hereby permitted shall not be occupied until a Verification Report, pertaining to been submitted to and approved by the Local Planning Authority. 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 the development is served by satisfactory arrangements for the disposal of surface water, in line with National Policy (NPPF) 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.

#### **14. Pre-commencement: Land contamination**

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

1) A preliminary risk assessment which has identified:- all previous uses- potential contaminants associated with those uses- a conceptual model of the site indicating sources, pathways and receptors- potentially unacceptable risks arising from contamination at the site.

2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

4) On completion of the works a Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in (3). This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

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

**15. Pre-occupation: Railway Noise Insulation**

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against externally generated noise from the Chatham Main Line to standards in the Swale Borough Council's Noise and Vibration Planning Technical Guidance Document (May 2020) in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

Reason: To ensure that the development is insulated to an acceptable level in accordance with national Policy and local guidance.

**16. Construction Hours of Working**

No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730-1800 hours, Saturdays 0800–1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

**17. Piling Hours of Working**

No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:- Monday to Friday 0900-1700 hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

**18. Pre-Commencement: Construction Environment Management Plan**

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

- Hours of working
- An indicative programme for carrying out the works Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water

- The location and design of site office(s) and storage compounds

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

#### **19. Pre-Commencement: Construction Logistics Management plan**

Prior to the commencement of the development, Construction Logistics Management Plan shall be submitted to approved by the local planning authority and so implemented, on site to include the following:

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

Reason: To protect amenities.

#### **20. Completion of Access**

The access shown on the hereby approved plans shall be completed prior to occupation of any of the herby approved units.

Gradient of the access to be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

Reason: To ensure proper and safe access.

#### **21. Wheelchair Accessible Dwellings**

The homes should be provided as Part M4(2) standard (accessible and adaptable dwellings).

Reason: To ensure inclusive access.

#### **22. Highway works 1**

Prior to above ground works, plans and details setting out the design and specification for the highways works indicated on drawing TRS-WSP-00-XX-DR-TP-0001 Rev P04 to provide a footway and 5.5m wide carriageway along the site frontage shall be submitted to and approved in writing by the Local Planning Authority.

No dwelling hereby approved shall be occupied on the development site until the approved highway works have been carried out and fully implemented to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

#### **23. Highway works 2**

Prior to above ground works, an application shall be made for a Traffic Regulation Order to introduce waiting restrictions on both sides of Tonge Road between All Saints Road and the Eastern end of the development site. Thereafter the development shall be

implemented in accordance with the outcome of that Traffic Regulation Order application.

Reason: In the interests of highway safety and amenity.

## **INFORMATIVES**

### **i. Rail**

Network Rail is the statutory undertaker for maintaining and operating railway infrastructure of England, Scotland and Wales. As statutory undertaker, NR is under license from the Department for Transport (DfT) and Transport Scotland (TS) and regulated by the Office of Rail and Road (ORR) to maintain and enhance the operational railway and its assets, ensuring the provision of a safe operational railway. Due to the close proximity of the proposed development to Network Rail's land and the operational railway, Network Rail requests the applicant / developer engages Network Rail's Asset Protection and Optimisation (ASPRO) team prior to works commencing. This will allow our ASPRO team to review the details of the proposal to ensure that the works can be completed without any risk to the operational railway. The applicant / developer may be required to enter into an Asset Protection Agreement to get the required resource and expertise on-board to enable approval of detailed works. To start the process with our Asset Protection team, the applicant / developer should use the Asset Protection Customer Experience (ACE) system found on Network Rail's Asset Protection website <https://www.networkrail.co.uk/running-the-railway/looking-after-the-railway/assetprotection-and-optimisation/>

This website also provides more information about our Asset Protection team and the services they offer. Where applicable, the applicant must also follow the attached Asset Protection informatives. The informatives are issued to all development within close proximity to the railway (compliance with the informatives does not remove the need to engage with our ASPRO team).

### **ii. Highways**

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil. Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority. Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process. Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved



plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site. Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissionsand-technical-guidance>

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

### **iii. Code of Development Practice**

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

### **iv. Surface Water Disposal**

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

### **v. Crime Prevention**

Please note the advice of the police crime prevention design advisor in the detailed design of the scheme.

### **vi. SAMMs**

This permission has only been granted after receipt of a financial contribution to the Strategic Access Management and Monitoring Strategy in respect of the nearby Special Protection Area.

### **vii. Sewers**

The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk) in order to progress the required infrastructure.

### **viii. Broadband**

Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high-speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband

connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact [broadband@kent.gov.uk](mailto:broadband@kent.gov.uk)

#### **ix. SUDS**

The following points should be noted wherever infiltration drainage (such as soakaways) is proposed at a site: • Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks. Clean uncontaminated roof water • should drain directly to the system entering after any pollution prevention methods. • No infiltration system should be sited in or allowed to discharge into made ground, land impacted by contamination or land previously identified as being contaminated. There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of the system and the water table. • A series of shallow systems are preferable to systems such as deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater. • Where infiltration SuDS are proposed for anything other than clean roof drainage in a Source Protection Zone 1, a hydrogeological risk assessment should be undertaken, to ensure that the system does not pose an unacceptable risk to the source of supply.

Given the impermeable nature of the site we will expect for clarification to be provided as part of the detailed design submission as to how surface water from the 'undeveloped areas' is prevented from entering the positively drained network and exceeding its designed capacity. Any feature capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse' and we would urge the applicant to contact us prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function. Any works that have the potential to affect the watercourse or ditch's ability to convey water will require our formal flood defence consent (including culvert removal, access culverts and outfall structures). Please contact [flood@kent.gov.uk](mailto:flood@kent.gov.uk) for further information.

#### **x. Contaminated Soils**

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes: Duty of Care Regulations 1991 Hazardous Waste (England and Wales) Regulations 2005 Environmental Permitting (England and Wales) Regulations 2010 The Waste (England and Wales) Regulations 2011 Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at <https://www.gov.uk/government/organisations/environment-agency> for more information.

#### **xi. Highways Approvals and Consents**

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces

of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

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

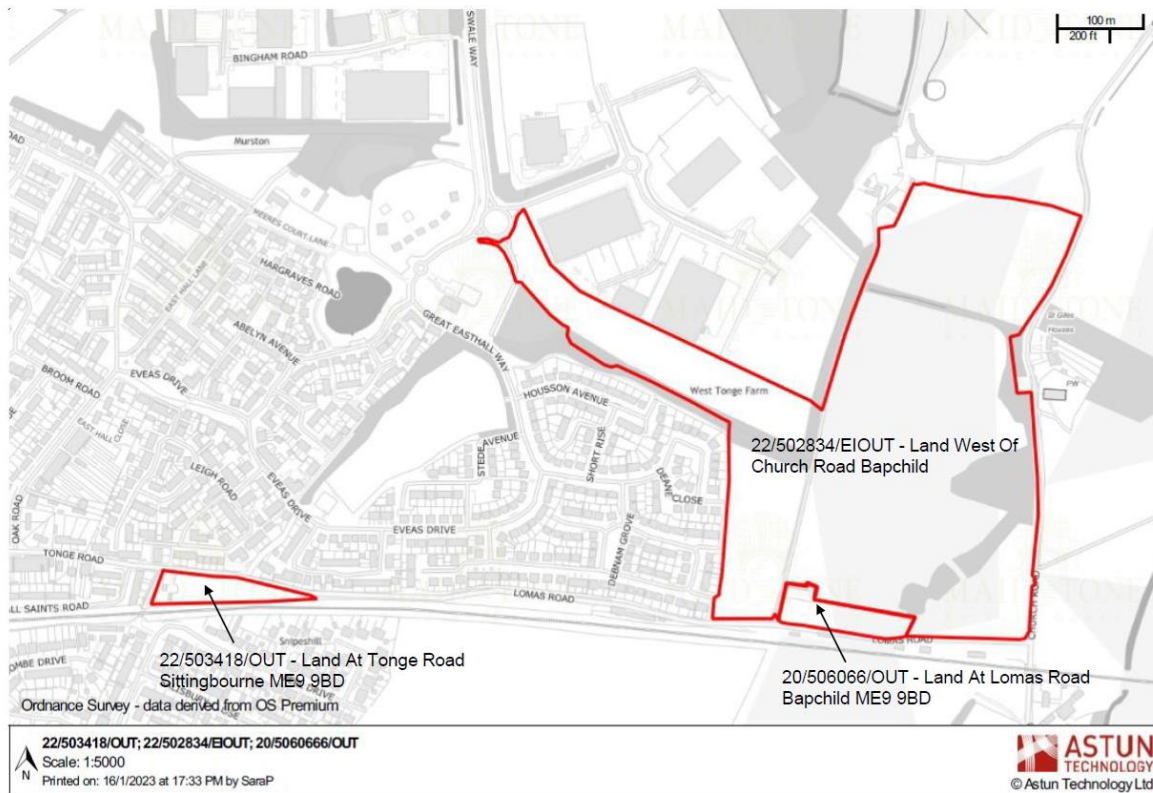
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where 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.





Item 2.1

Land At Tonge Road Sittingbourne Kent ME9 9BD

Carter Jonas



- Vehicular access
- Footpath
- Green space / rain gardens
- Native shrubs and species rich planting (with informal pedestrian footpath link)
- Private communal gardens

PROJECT TITLE  
**TONGE ROAD, SITTINGBOURNE**

ISSUING TITLE  
**ILLUSTRATIVE LAYOUT**

DWG. NO. 48943\_004B

REV.	DESCRIPTION	DATE
1	Issue for planning	05/01/2023
2	Issue for planning	05/01/2023

ISSUED BY Cambridge T: 01223 368 771 JR  
 DATE July 2022 DRAWN JR  
 SCALE SA2 1:500 CHECKED  
 STATUS FINAL APPROVED JD



AMENDED

<b>2.1 REFERENCE NO - 22/503418/OUT</b>		
<b>APPLICATION PROPOSAL</b> Outline Application with access matters sought for the development of up to 16 dwellings and all necessary supporting infrastructure including internal access roads, footpaths and parking, open space and landscaping, drainage, utilities and service infrastructure works. (Matters of appearance, landscaping, layout and scale are reserved for future considerations; except for access to Tonge Road.)		
<b>ADDRESS</b> Land at Tonge Road Sittingbourne Kent ME9 9BD		
<b>RECOMMENDATION</b> Approval subject to the prior completion of a s106 Planning Obligation to secure the heads of terms set out in the report and the imposition of conditions also set out in this report with delegated authority given to officers to negotiate the s106 agreement as necessary and to amend and add to the list of conditions as appropriate		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The site lies within the extended settlement boundary for Sittingbourne to the South of Tonge Road. The development of such a site is in line with the local plan policy and strategy. The scheme includes widening of Tonge Road and provision of footways along the southern part of Tonge Road towards where it becomes Lomas Road and contribute towards a quiet road scheme on Lomas Road. The means of access and quantum of development as shown in the illustrative design are considered acceptable.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Interlinked with other agenda items. Cumulative impacts of three close by schemes sharing infrastructure or mitigation schemes. No call in.		
<b>WARD</b> Murston	<b>PARISH/TOWN COUNCIL</b> Within Murston Parish which no longer has a Parish Council.	<b>APPLICANT</b> Fenrose Ltd <b>AGENT</b> Carter Jonas LLP
<b>CASE OFFICER:</b> Andrew Lainton		
<b>DECISION DUE DATE</b> 24/10/22	<b>PUBLICITY EXPIRY DATE</b> 28/10/22	

**1. PLANNING HISTORY**

- 1.1** The site has a long planning history of applications for varying forms of residential development in the 1970's and 1980's, which were refused planning permission. However, since then there has been a significant shift in planning policy and as such these applications are not considered to be material to the consideration of this application.

**2. DESCRIPTION OF SITE**

*Site Location*

- 2.1 The site is 0.48ha and is located on land adjacent to the edge of the urban area of Sittingbourne within the extended settlement boundary. The town centre is approximately 1700m to the west with Sittingbourne Railway Station being 1800m away.
- 2.2 The site itself is located to the South of Tonge Road, which becomes Lomas Road immediately to the East of this site. Tonge Road/Lomas Road is a country lane which forms the only road exit/entrance from Sittingbourne to the east on the northern side of the railway line. The site is located to the south of Tong Road between it and the Sittingbourne to Faversham Railway line.

*Site Boundaries and Topography*

- 2.3 The site is triangular in shape running east-west to a point at its eastern end. The width of the site is approximately 179m along Ting Road and around 38m deep at its widest point. The site is relatively flat with the southern boundary formed by the railway and the northern boundary by an irregular hedge and shrubs.
- 2.4 The site has been used as paddocks with two small buildings on the far western part of the site. The current site access is located at the north-western corner of the site from Tonge Road, which gives access to a few structures on an area of hardstanding. The remainder of the site is laid to grass. Taking this into account the site is considered to be previously developed land.
- 2.5 The site lies directly to the South of the Great East Hall Estate and to the east of a footpath which goes under the railway to the Snipeshill area. At this point Tonge Road has no footways and forms part of National Cycle Route One. This is an important route mostly on quieter country lanes linking London through Sittingbourne to Dover.
- 2.6 There are no trees within the body of the site only at the site boundaries.

**3. PROPOSAL**

- 3.1 The proposal is an outline application with all matters reserved for future determination apart from means of access. The application proposes the construction of 16 dwellings, two of are proposed to be affordable units. The proposal includes a parameter plan showing means of access, block form and front building lines.
- 3.2 The dwellings would be accessed via two site access T junctions, which front Tonge Road. The eastern access would be a vehicular crossover arrangement whilst the



western access has been designed as a minor access way. It is proposed that Tonge Road be widened to a 5.5m wide carriageway across the whole of the site frontage with the exception the eastern side of the site that is proposed to be open space. In addition to this a 1.8m wide footway will be provided.

- 3.3 An illustrative masterplan shows a mix of dwellings, including semi-detached, terraced properties and maisonettes. These would range from one to three bedrooms in size, with the precise mix determined through subsequent reserved matters applications. The layout includes five visitor parking spaces and parking provision for the residential units.
- 3.4 The proposed build takes the form of three simply designed blocks, which form a new street frontage along Tong Road. All dwellings are designed to have private amenity space with the exception of the properties would have front and rear gardens. At the narrowest eastern part of the site a communal open space would be provided.

Planning constraints

- 3.5 There are no statutory planning constraints at or adjoining the site application site.

#### **4. POLICY**

##### **Bearing Fruits 2031: The Swale Borough Local Plan 2017**

**ST1** Delivering sustainable development in Swale;

**ST2** Development targets for jobs and homes 2014- 2031;

**ST3** The Swale Settlement strategy

**ST4** Meeting the Local Plan Development Targets

**ST5** The Sittingbourne Area Strategy

**CP2** Promoting Sustainable Transport

**CP3** Delivering a Wide Choice of High-Quality Homes

**CP 4** Requiring Good Design

**CP 5** Health and Wellbeing

**CP 6** Community Facilities and Services to Meet Local Needs

**CP 7** Conserving and Enhancing the Natural Environment – Providing for Green Infrastructure

**DM 6** Managing Transport

**DM 7** Vehicle parking;

**DM 8** Affordable Housing;

**DM 14** General development criteria;

**DM 17** Open Space, Sports and Recreation Provision

**DM 19** Sustainable design and construction;

**DM 21** Water, flooding and drainage;

**DM 28** Biodiversity and geological conservation;

**DM 29** Woodlands and Trees.

**Supplementary Planning Documents**

Developer Contributions (2009);

Parking Standards (2020); (chapter 2 and standards in appendix a)

Landscape Character and Biodiversity Appraisal (2011)

Swale Borough Council's Noise and Vibration Planning Technical Guidance Document (May 2020)

**5. LOCAL REPRESENTATIONS**

5.1 Letters were sent to neighbouring occupiers and a site notice was placed in the vicinity of the site. In response thirteen objections to the proposal were received on the following grounds: -

- Overlooking
- Loss of view [not a material planning consideration]
- Loss of sunlight south facing gardens

- Congestion and heavy traffic on narrow lane.
- Traffic Pollution according to NPPG air quality is not a material consideration on such a small site in this location]
- Loss of property value [not a material planning consideration]
- Noise during construction [not a material planning consideration, controlled by other legislation i.e., Control of Pollution Act
- Loss of Trees
- Flooding
- Will block footpath under railway line [No works are proposed to this footpath]

**5.2 Sittingbourne Society have objected to the application on the following grounds:**

*Concerned that to squeeze 16 properties on to a small field bordered by the railway and Tonge Road is an overdevelopment of this land. and scale of the proposed buildings would overshadow existing properties. Tonge Road is narrow and to add a new road junction will exacerbate existing traffic hazards and will add to extra stress on the local road network. The building of yet more properties in this area will place an extra burden on the capacity of the local surface water drainage system.*

**5.3 Tonge Parish Council have objected to the application on the following Grounds:**

*It will increase traffic on the narrow country lanes around Tonge Mill. Car drivers will exit the site on to Tonge Road and travel east along Lomas Road before accessing the A2. This will make the junction of Hempstead Lane and the A2 even more dangerous. Around Tonge Pond and Mill there are a number of listed buildings that have sustained damage and the road has collapsed probably due to increased HGVs travelling from the Golf Range. Any further traffic will exacerbate the situation.*

*Together with 20/506066/OUT there is the potential for five further roads to pour traffic on to a short stretch of Tonge and Lomas Roads which is going to make this narrow country lane impassable [note the other site access onto Lomas Road now deleted] The rural roads around Tonge are frequently used by cyclists and pedestrians so any further traffic movements would create a hazard particularly where there is no footpath [a footway and road widening is proposed as part of the application].*

*It is considered the when the Great East Hall Estate, which is north of Lomas Road and opposite the site, was given planning permission it was agreed that there would not be any vehicular access roads on to Lomas and Tonge Roads because of the narrow nature of the road and the implications for other local roads. The design will*

*encourage residents to park at the front of their houses, as many people do along Tonge Road. This will create a hazard on what will become an increasingly busy road. The application also says: 'The proposed houses will be 2 to 2.5 storeys'. 'The 2 storey housing will generally be up to 9m tall (maximum height to ridge above ground level), and the 2.5 storey housing up to 11m tall.' This seems very tall. We are concerned that they will overlook houses on the north of Tonge Road.*

**Swale Footpath User Group** have commented that the track to the west (passing under the railway arch) is PROW ZU 18.

## 6. CONSULTATIONS

- 6.1 Kent County Council Highways (01/08/2022): No objection subject to conditions and the completion of a Section 106 agreement.

*The application includes the widening of Tonge Road to 5.5m and incorporates a new footway to the site frontage. Off street parking provision accords to current standards and includes the necessary provision for electric vehicles, the detailed arrangements will be considered at reserved matters stage.*

- 6.2 Mid Kent Environmental Health (1.09.2022) No objection subject to conditions to secure mitigation relating to noise impacts, air quality and contamination

- 6.3 Network Rail (26.08.2022): No objections to the proposal

- 6.4 Kent County Council Developer Contributions (17 .08.2022): No objection subject to S106 contributions be secured towards the following: -

### *Primary Education*

*The proposal gives rise to up to 4 additional primary school pupils during occupation of the development. This need, cumulatively with other new developments in the vicinity requires new primary accommodation to be provided, including the provision of a new primary school therefore a contribution towards the new primary school and a land contribution is required.*

*A primary school contribution of £6,800.00 per ‘applicable’ house and £1700.00 per ‘applicable’ flat is requested.*

*Land Contribution £2062.22 per ‘applicable’ house and £506.56 per ‘applicable’ flat*

### *Secondary school Provision*

*The proposal is projected to give rise to up to 3 additional secondary school pupils from the date of occupation of this development. This need can only be met through the provision of a new Secondary School serving this development. The County Council, therefore, requires a financial contribution towards the new Secondary School to provide additional accommodation at £5,176.00 per ‘applicable’ house and £1294.00 per ‘applicable’ flat.*

*In terms of land acquisition costs, the County Council requires the securing of provision of a new Secondary School site serving this development along with proportionate contributions towards the Secondary School land acquisition cost at £2653.75 per ‘applicable’ house and £658.93 per ‘applicable’ flat.*

### *Community Learning*

*£16.42 per dwelling towards the cost of providing additional equipment and resources at Adult Education Centres serving the development and outreach provision to increase capacity in the service*

*Youth Service*

*£65.50 per dwelling towards additional resources and equipment to provide outreach services in the vicinity of the development.*

*Library Service*

*£55.45 per household to address the direct impact of this development, and the additional services, resources and stock will be made available at Libraries serving the development.*

*Adult Social Care*

*£146.88 per towards specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting Community facilities, sensory facilities, and Changing Places locally in the Borough. Dwellings are built to Building Reg Part M4(2) standard (as a minimum) to ensure that they remain accessible throughout the lifetime of the occupants, meeting any changes in the occupant's requirements.*

*Waste*

*A contribution of £183.67 per household is required towards expansion of HWRCs and WTS' within the Borough, including work at the Sittingbourne WTS*

*Broadband*

*The NPPF (para 114) and The Department for Digital, Culture, Media and Sport requires full fibre connection to new developments being gigabit capable fibre optic to the premise connection for all. Please include a Planning Condition to provide 'fibre to the premise' (FTTP) broadband connections to all premises of gigabit capacity. Developers are advised to make early contact with broadband providers, as there can be a lead in time for cable installation and associated infrastructure.*

- 6.5 Kent County Council Drainage (Lead Local Flood Authority) (17.08.2022): No objection to the proposal.

The detailed drainage design can be considered at the detailed design stage.

- 6.6 Environment Agency (28.07.2022): No Objection to the proposal

- 6.7 Natural England (11.08.2022): No Objections subject to the adoption of an Appropriate Assessment and securing the necessary mitigation.

- 6.8 Southern Water (17.08.2022): No Objection to the proposal.

- 6.9 Kent Police: (16.08.2022) No objection subject to incorporation of crime prevention measures

- 6.10 KCC Mineral and Waste (09.08.2022): No objection to the proposal

- 6.11 Affordable Housing Officer (08.11.2022): No objection to the proposal subject to securing the delivery of 2 affordable housing units.

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

7.1 The application has been supported by a number of drawings (though with the exception of the access drawings, these are illustrative), assessments, and reports. These include the following:

- Planning and Design and Access Statement
- Site Plan
- Proposed Site Access Drawing
- Parameter Plan
- Illustrative Layout
- Noise Impact Assessment
- Flood Risk Assessment
- Arboricultural Impact Assessment and Method Statement
- Preliminary Ecological Appraisal
- Transport Assessment

## **8. APPRAISAL**

8.1 The main considerations involved in the assessment of this application are:

- a. Principle of Development
- b. Meeting the Need for Housing
- c. Meeting the need for Affordable Housing
- d. Highway Safety, Transportation and Parking
- e. Design and Landscape



- f. Living conditions
- g. Sustainable Design and Construction
- h. Drainage and Flood Risk
- i. Trees and Biodiversity
- j. Swale SPA Impact – Appropriate Assessment
- k. Social Infrastructure
- l. Other Matters

**a) Principle of Development**

- 8.2 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. 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. At this stage, the Council can demonstrate a 4.83 year supply of housing and as such the presumption in favour of sustainable development at paragraph 11d is engaged. In light of this the policies within the Local Plan 2017 in relation to housing delivery are out of date, however, as they are consistent with the NPPF they can be afforded significant weight.
- 8.3 The Local Plan 2017 seeks to steer new housing development to the defined built-up areas of the district with Sittingbourne being the primary focus. The site is a stripe of previously developed land, which is located within the extended urban boundary of Sittingbourne and as such the site is considered to be suitably located to services.
- 8.4 Taking this into account, the principle of development is acceptable in accordance with policies ST3, ST5 and CP3 of the Local Plan 2017 and the NPPF.
- 8.5 The scheme would make a modest contribution towards meeting housing needs in the borough in an accessible location in accordance with the local plan policy ST2 and national policy, which weighs modestly in favour of the scheme in the planning balance.

- 8.6 The scheme is compliant with the development plan, although this is out of date as the five year period required by the Bearing Fruits inspector has passed and in addition the tilted balance applies (para 11d NPPF footnote 8) in either case the presumption in favour of development and the presumption in favour of development plan apply, using the same section of the NPPF (para 11d) coming to the same conclusion; the scheme should be approved.

### **b) Meeting the Need for Affordable Housing**

- 8.7 The NPPF establishes that the requirement for affordable housing provision should be reflected in planning policy. Paragraph 65 of the NPPF establishes that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership. This is consistent with policy DM8 of the Local Plan 2017, which requires the provision of 10% affordable housing in Sittingbourne.
- 8.8 As part of this scheme two affordable units are to be provided on-site. One will be for affordable rent with the second being a first-time home. Swale's affordable housing officer has been consulted, and they have raised no objection to proposal.
- 8.9 Taking this into account the proposal is considered to accords with policy DM8 of the Local Plan 2017 and the NPPF.

### **c) Highway Safety, Transportation and Parking**

- 8.10 The National Planning Policy Framework 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 National Planning Policy Framework is that development should:
- 8.11 "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."
- 8.12 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."
- 8.13 Local Plan Policy DM 6 requires development proposals that generate a significant amount of transport movements to be supported by a Transport Assessment (including Travel Plan), which will be based on the Council's most up to date strategic modelling work. In assessing applications, it will need to be considered how the environmental impacts of traffic can be managed, providing alternatives to the car and encouraging the use of public transport and seeking new road infrastructure.

- 8.14 The proposed development is predicted to generate an additional nine two-way trips by car / van in the AM peak hour and 11 two-way trips in the PM peak hour. The scheme has been assessed by KCC Highways and the impacts of the scheme are not considered to be severe alone and in combination with other development. As such a key consideration of this application is how the increase in traffic movements can be mitigated.
- 8.15 Note under the NPPG the site is too small with no impact on any AQMA for consideration of any impacts on air quality.
- 8.16 The scheme includes the widening of Tonge Road and it will provide footways along the built frontage. In addition to this due to the lack of footways along Lomas Road and its importance as a cycle route, which forms part of the National Cycle Network there will need to be safety improvements in the form of a 'Quiet Lane' scheme. Quiet Lanes are signed areas and are minor rural roads that pay special attention to the needs of pedestrians, cyclists, horse riders and those with disabilities. They are intended to enable such users to enjoy country lanes more safely. Considering this a contribution of £7,000 is required to mitigate this scheme. Taking this into account it is considered that the effects of the proposal upon the surrounding highway network can be suitably mitigated via the imposition of conditions and a Section 106 agreement.
- 8.17 The site would be served by two newly created vehicular access points on the northern side of the site on Tonge Road, which are considered to be suitably designed to allow for sufficient capacity and as such will not result in an adverse impact upon highway safety. They are designed in accordance with Kent Design Guide and meet KCC Highway's requirements. Officers are therefore satisfied that the access points are suitably designed. It is anticipated that refuse will be collected from Tonge Road and as such refuse vehicles will not be required to access the site itself.
- 8.18 In terms of the illustrative layout, this shows that suitable turning space for delivery vans and servicing can be accommodated within the layout. It also indicates parking be provided in accordance with the Council's parking standards, which can be secured via planning condition. In addition to this cycle storage will be accommodated on plot for each dwelling, again provision in accordance with the Local Plan requirements can be secured by planning condition.
- 8.19 In terms of the inclusion of EV charging for vehicles is covered by Building Regulations. Taking the above into account officers are satisfied that the proposal will have no adverse impact upon the highway network. The proposal is therefore considered to accord with policy DM8 of the Local Plan and the NPPF subject to the imposition of safeguarding conditions and the completion of a Section 106 agreement. A number of objections relate to the narrow nature of Tonge Road/Lomas Road, however the proposed road widening and new footways resolve this issue. The scheme is very different from the Great East Hall and West of Church Road schemes to the north,

where because of their strategic scale required a connection via Swale Way / The local plan proposed Sittingbourne Northern Relief Road. It is considered that a small-scale scheme such as this, with the proposed wide widening and new footways, and contiguous with the developed area of Murston is acceptable.

#### **d) Design and Landscape**

- 8.20 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.
- 8.21 The Local Plan reinforces this requiring new proposals to be of high quality design including the form of the development in terms of the efficient use of land, layout, landscape, density and mix, scale, massing, materials, finish and architectural detail.
- 8.22 Although design, scale, layout and landscaping are reserved matters, the submitted plans demonstrate that 16 dwellings can be comfortably accommodated within the site, providing sufficient garden space and off-road parking. The submitted plans show an acceptable indicative layout of the proposed dwellings whereby a new street frontage is created along Tonge Road, which is considered to be acceptable in terms of the character and appearance of the area due to the reference that is taken from the form, bulk, massing and design of dwellings present within the streetscene. This is in line with national policy, the national design code and local plan policy CP 4.
- 8.23 The illustrative layout incorporates an indicative landscape proposal, which includes front gardens with dwarf front walls and planting. In addition to this landscaping is concluded within the communal parking areas. The proposed open space is appropriate to the size of the site and meets the requirement of local plan policy DM17.
- 8.24 In light of the above, it is considered that the proposal would not be harmful to the character and appearance of the street, in accordance with policies CP4 of the Local Plan 2017 and the NPPF.

#### **e) Living conditions**

- 8.25 The Local Plan aims to secure a good standard of amenity for all existing and future occupants of land and buildings.

##### Existing Occupiers

- 8.26 On the basis of the indicative layout and the relationship of the site with nearby dwellings, it is considered that a detailed scheme that would not result in harm to neighbouring property occupiers can be achieved on the site.

*Future occupiers*

- 8.27 On the basis of the submitted plans, the proposed dwellings would provide internal accommodation that meets national space standards and sufficient garden space, including secure cycle and bin storage. The site is located adjacent to existing residential development, the indicative layout shows the proposed dwellings to be set away from these dwellings and it is considered that a detailed scheme that would not result in harm to future occupiers can be achieved on the site.
- 8.28 To the rear of the site is a railway line with a busy road being located to the front of the site, to accompany this application a Noise and Vibration Assessment was carried out. The report sets out that noise levels at the site are dictated by road traffic noise emissions from Tonge Road and train passes on the Chatham Main Line and this this can be mitigated
- 8.29 The noise impacts affecting the development have been assessed in accordance with the ProPG guidance. The noise model was used to calculate road traffic and railway noise levels at all facades of the development. In light of work undertaken, mitigation in the form of acoustically upgraded glazing and ventilation and acoustic screening around gardens is required to avoid any negative impact upon the living conditions of future occupiers. This can be secured via condition and will be considered further at the detailed design stage. In addition to this the vibration levels have been monitored across the site and these are considered to be acceptable.
- 8.30 Taking this into account coupled with no objection being received from Mid Kent services, the proposal is considered to have an acceptable impact upon the living conditions of neighbouring occupiers subject to conditions. The application is considered to accord with policy CP 4 of the Local Plan 2017 and the NPPF.

**f) Sustainable Design and Construction**

- 8.31 Whilst the detail of the construction of the proposed dwellings will be determined at the reserved matters stage, it is expected that the development will seek to adopt a range of measures to respond positively to climate change. The proposals as shown in the illustrative masterplan are expected to:
- oriented to maximise the benefits of passive (free) solar gain whilst balancing this with the risk of overheating now, and in a warmer climate in the decades to come;
  - Be thermally insulated to minimise heat loss and further minimise energy lost through thermal bridging;
  - Be air-tight and properly ventilated to maintain good levels of air quality;
  - Include additional architectural features and specifications to manage overheating risk and help the buildings fully adapt to a changed climate; and

- Incorporate energy efficient lighting and appliances, electric vehicle charging points and flow restrictions on water supplies.

8.32 With these measures the scheme is considered to comply with local plan policy DM 19 and the NPPF.

### **g) Drainage and Flood Risk**

8.33 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. The site has been subject to a flood risk assessment.

8.34 The site is located in Flood Zone 1, the zone at the least risk of flooding. The proposed surface water drainage strategy demonstrates that the proposed development can be drained using attenuation SuDS, which will provide storage for site runoff volumes up to and including the 1% annual probability storm event, including a 40% climate change allowance. Attenuated runoff is proposed to be discharged into a public surface water sewer, which will need to be agreed with Southern Water.

8.35 In terms of foul water, a new dedicated private foul drainage network will collect foul drainage from the new dwellings within the application site. The flows will then be conveyed off-site and discharged into the public foul network, at a point of connection to be agreed with Southern Water. While Southern Water have confirmed that there is insufficient capacity within nearby public surface and foul water networks to take flows from the proposed development, it has also confirmed its duty to provide capacity from a point of practical connection once planning permission has been granted.

8.36 To mitigate the residual risk of flooding at the site finished floor levels are proposed to be set to a minimum of 300mm above the level of the adjacent roads. Site levels will be engineered to prevent ponding and to ensure overland flows will still cross the site without exacerbating flood risk to local properties.

8.37 Taking this into account, the proposal is considered to accord with policy DM28 of the Local Plan 2017 and the NPPF.

### **h) Biodiversity and Trees**

8.38 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.'

- 8.39 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".
- 8.40 In terms of the site itself, no large or individually significant trees are present within the site itself. There are a few lower quality and semi mature trees on the edges of the site, which would need to be removed to accommodate the development. The loss will be compensated for by landscaping of the site, which is a reserved matter. However, an arboriculture method statement should be secured by way of safeguarding condition.
- 8.41 A preliminary ecological appraisal has been submitted in support of this application and this has been reviewed by KCC Ecology who raise no objections to the scheme. The site does not lie within or adjacent to any designated biodiversity sites. While the site falls within one of the Swale SSSI impact risk zones., it falls outside of those listed as likely to cause harm and as such no mitigation was seen to be required for this, or other, statutory designated sites within the local area.
- 8.42 Turning to the impacts of the lighting, careful consideration needs to be given to the impact of this along the southern boundary due to the presence of bats. As a result, a sensitive lighting scheme should be conditioned to ensure that any lighting scheme is suitably designed, in addition to enhancements.
- 8.43 Whilst no evidence of badgers was identified within or around the site where access was possible, it is considered that they may use the site for commuting and foraging purposes. As such, precautionary methods of work have been outlined to avoid harming any individuals that may use the site.
- 8.44 In line draft national policy a biodiversity net gain of 10% will be required and a proposed condition will secure this. Initial calculations show a gain of +11.56% units and a gain of +100% in Hedgerow units, principally through improvements along the frontage and habitat creation on the new open space area.
- 8.45 Taking the above into account the proposal is considered to have an acceptable impact upon biodiversity and trees subject to safeguarding conditions. With the above on site biodiversity net gain. The application is considered to comply with policies DM28 and DM29 of the Local Plan 2017 and the NPPF.

**i) Swale SPA Impact – Appropriate Assessment**

8.46 Para 182 of the NPPF states

*The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.*

8.47 The site is within 6km of both The Swale Ramsar and Special Protection Area and Medway Estuary and Marshes Ramsar and Special Protection Area. Any residential developments within 6km of these internationally designated areas will need to mitigate by contributing to the Strategic Access Management and Monitoring Strategy (SAMMS) to offset any potential impacts as a result of increased recreational activity over these areas. This is included in the proposed S106 heads of terms. Appendix 1 gives a full appropriate assessment of the scheme.

8.48 With the proposed SAMMS contributions mitigation the scheme is considered to fully comply with national policy and local plan policy DM28. With the mitigation of impact this is neutral in the planning balance.

**j) Social Infrastructure**

8.49 The National Planning Policy Framework attaches importance to ensuring that a sufficient choice of school places are available to meet the needs of existing and new communities.

8.50 Policy CP 5 and CP6 set out that provision shall be made to accommodate local community services, social care and health facilities within new developments.

8.51 As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is:



- Necessary
- Related to the development
- Reasonably related in scale and kind

8.52 The following outline the financial contributions that have been sought by Kent County Council and Swale Borough Council to mitigate the impact of the development upon services, these contributions are all for specific capital projects which have been identified and assessed by Officers to comply with the Regulations as amended).

8.53 Proposed heads of terms as part of the recommendation below. are set out for a range of social infrastructure including school places and GP provision are set out in the heads of terms. The scheme would also include a contribution to off-site sports facilities of a scale according to the councils open space strategy. This should fully mitigate the impact of the scheme on social infrastructure and complies with national planning policy, regulations and local plan policies CP5 and CP6.

#### **k) Other Matters**

8.54 There are no other significant planning matters. Proposed conditions suggested by Mid Kent Environmental Health address potential contamination. There is no evidence of archaeology on site because of previous brickearth extraction and impact of construction of railway line.

### **9. PLANNING BALANCE AND CONCLUSION**

9.1 Overall, the scheme is fully compliant with the Local Plan 2017 and the NPPF. For the reasons set out in the report. The scheme lies within the built-up area boundary, has appropriate design and mitigates to ensure an acceptable mean of access, transport impact and impact on social infrastructure and on the Special Protection Areas. For the reasons set out in the report the scheme complies with national and local planning policy, it is recommended that planning permission be granted for the proposal subject to suitable safeguarding conditions and the completion of a section 106 agreement as set out below.

### **10. RECOMMENDATION**

**GRANT subject to conditions and section 106 heads of terms as set out below.**

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

### Proposed Heads of Terms

	Per house (x 16)	Total Assumes 100% Houses	- Paid to	Project
<b>Pedestrian crossing for Snipeshill Footpath</b>		£25,000 contribution	KCC	Connects Great East Hall Estate to schools south of Chatham Main Line Railway
<b>Primary Education</b>	£6,800.00 per applicable unit	£108,800.00	KCC	Towards a new 2FE Primary School serving this development and/or provision within the planning group  (‘applicable’ means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).
<b>Primary School Land</b>	£2,026.22 per applicable unit	£32,419.52	KCC	Towards the land acquisition costs of a new Primary School serving this development  (‘applicable’ means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).
<b>Secondary Education</b>	£5,176.00 per applicable unit	£82,816.00	KCC	Towards a new Secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or increased capacity in Sittingbourne nonselective and Sittingbourne & Sheppey selective planning groups  (‘applicable’ means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).

<b>Secondary School Land</b>	£2,635.73 per applicable unit	£42,171.68	KCC	Towards the land costs of the new Secondary School in Northwest Sittingbourne (Local Plan Policy MU1) and/or new Secondary Schools in Sittingbourne nonselective and Sittingbourne & Sheppey selective planning groups.  ('applicable' means: all dwellings except 1 bed of less than 56sqm GIA and age-restricted accommodation).
<b>Community Learning</b>	£16.42	£262.72	KCC	Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre and outreach provision to increase capacity in the service.
<b>Youth Service</b>	£65.50	£1,048.00	KCC	Contributions requested towards additional equipment and resources for the Youth service to provide outreach services in the vicinity of the development.
<b>Library Service</b>	£55.45	£887.20	KCC	Contributions requested towards additional services, resources, and stock at Sittingbourne Library serving the development.
<b>Social Care</b>	£146.88	£2,350.08	KCC	Towards Specialist care accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough.

<b>Waste Management Facilities</b>	£183.67	£2,938.72	KCC	Towards capacity at HWRCs and WTS' within the Borough
<b>Quiet Lane Scheme on Lomas Road</b>		£7,000	KCC	Contribution, together with two others scheme on Lomas Road (items 2 and 3)
<b>Affordable Housing</b>	Provision in kind on or off site.	1 First home, 1 social rented home	Na	Provision in kind on or off site.
<b>Primary Care</b>	£360.00	£5,760	CCG	Towards GP provision in the Sittingbourne Area
<b>Sports Provision</b>	£593.00 per dwelling.	,9,488	SBC	Off site improvements to existing open spaces

<b>SPA Strategic Access Management and Monitoring Strategy</b>	£281.00	£4,496	SAMMs	SAMMS management
<b>Total</b>		£138,288		

Please note that these figures are to be index linked by the BCIS General Building Cost Index from April 2020 to the date of payment (Apr-20 Index 360.3)

Payments to be made prior to unit occupation.

### **CONDITIONS to include**

#### **1. Time Limit – Outline Schemes**

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

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

#### **2. Time Limit – Reserved Matters**

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

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

#### **3. Reserved Matters**

Prior to or contemporaneous with the submission of any reserved matters under condition (1) for layout referred to in condition the following shall be submitted to and approved by the local planning authority: finished site levels, proposed roads, footways,

footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture

Prior to or contemporaneous with the submission of any reserved matters under condition (1) for appearance referred to in condition the following shall be submitted to and approved by the local planning authority: finished site levels: the palette of building materials and elevational designs.

Prior to or contemporaneous with the submission of any reserved matters under condition (1) for landscaping referred to in condition the following shall be submitted to and approved by the local planning authority: details of both hard and soft landscape works. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials.

Prior to or contemporaneous with the submission of any reserved matters under condition (1) for heights referred to in condition the following shall be submitted to and approved by the local planning authority: Heights above ordnance datum including completion of finished levels.

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

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

#### **4. Completion in Accordance with Approved Drawings and Parameters**

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

- Site Plan 48943\_002A 11.07.2022
- Proposed Access Arrangements TRS-WSP-00-XX-DR-TP-0001 Rev P03 2022 11.07. 2022

The reserved matters applications shall accord with the following parameters

- Parameter Plan 48943\_003B 22.09.2022

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

## 5. Pre-commencement: Biodiversity Net Gain

Development shall not commence on until there has been a biodiversity gain plan submitted to and approved by the local planning authority; to demonstrate how the proposal shall contribute to the development achieving a post development biodiversity value with be a minimum of 10% higher than site pre-development biodiversity value. The calculation shall be in accordance with biodiversity metric 3.1 and based on the biodiversity net gain calculations submitted to Kent County Council Ecology and based on the biodiversity net gain calculations of 1st July 2022. The post development biodiversity value may include off-site biodiversity gain under the control of the applicant and purchased biodiversity credits. This gain shall thereafter be maintained for a minimum period of 30 years in line with the biodiversity gain plan.

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

Any off-site credits must demonstrate in the biodiversity gain plan

- That it is on land made available by a site provider with sufficient rights to the land;
- That it will be delivered by a specified person or body considered fit and proper to undertake the enhancement works;
- The land will be suitably managed to meet the required enhancement;
- That Work commenced 30 January 2020 or later;
- That the enhancement will be maintained for at least 30 years after the completion of those works;
- That the credit is measured using the most up to date biodiversity metric against a baseline metric assessment;
- That the credit may be allocated to development in accordance with the terms of the conservation covenant or planning obligation;
- That the credit is available to be allocated to this development;
- That it complies with rules on additionality and stacking including on protected sites;

- That it is in England, and;
  
- Monitoring and reporting for that site over the 30 year period.

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

## **6. Pre-Commencement: Landscape Management and Maintenance**

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

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

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

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

Reason: In the interest of biodiversity and visual amenities.

## **7. Completion of Roads and Footways**

Prior to first occupation of each of the dwellings hereby approved, the following works between a dwelling and the adopted highway shall have been completed: (a)Footways and/or footpaths, with the exception of the wearing course; (b)Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interests of highway safety and amenity.



## **8. Pre-occupation: lighting details**

Prior to the occupation of any of the hereby approved units details of all external lighting shall be submitted to and approved by the local planning authority and the approved details so implemented..

Reason: To ensure no unacceptable impact on any protected species of bat.

## **9. Details of Materials**

Notwithstanding the submitted plans, no development beyond the construction of foundations shall take place until details of the external finishing materials of the dwellings has been submitted to and agreed in writing by the Local Planning Authority. The details shall include brick, roof tiles and front wall and gate materials. The details as approved shall thereafter be implemented.

Reason: In the interests of visual amenities.

## **10. Restriction of Permitted Development Rights**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order),no development shall be carried out within Classes B and C and of Part 1 of Schedule 2 of that order

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

## **11. Details of Parking and Cycle Parking**

The details submitted pursuant to condition (1) above shall include details of the provision of vehicle parking and permanent retention of secure covered cycle parking facilities shall have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with the approved details.

Reason: In the interests of highway safety and active travel.

## **12. Pre-Commencement: High Speed Broadband**

Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of

1000mbps) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.

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

### **13. Pre-Commencement: SUDS/Drainage**

No development shall take place until the layout reserved matters details submitted as required by Condition 1 and as approved have:

- 1) A sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority 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.
- 2) demonstrated that an effective outfall for surface water is provided for the development layout. This information may include details of surveys of watercourses and culverts and / or details of any works that may be necessary to deliver an effective outfall for surface water.

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.

The development hereby permitted shall not be occupied until a Verification Report, pertaining to been submitted to and approved by the Local Planning Authority. 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 the development is served by satisfactory arrangements for the disposal of surface water, in line with National Policy (NPPF) 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.

#### **14. Pre-commencement: Land contamination**

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

1) A preliminary risk assessment which has identified:- all previous uses- potential contaminants associated with those uses- a conceptual model of the site indicating sources, pathways and receptors- potentially unacceptable risks arising from contamination at the site.

2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in (3). This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

**Reason:** To ensure the development does not create risks to health and safety from contamination.

#### **15. Pre-occupation: Railway Noise Insulation**

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against externally generated noise from the Chatham Main Line to standards in the Swale Borough Council's Noise and Vibration Planning Technical Guidance Document (May 2020) in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

Reason: To ensure that the development is insulated to an acceptable level in accordance with national Policy and local guidance.

### **16. Construction Hours of Working**

No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730-1800 hours, Saturdays 0800–1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

### **17. Piling Hours of Working**

No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:- Monday to Friday 0900-1700 hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

### **18. Pre-Commencement: Construction Environment Management Plan**

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

- Hours of working and timing of deliveries
- An indicative programme for carrying out the works Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings

- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off-road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Routing of construction and delivery vehicles to / from site, including the number of vehicles
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- Provision of wheel washing facilities
- Temporary traffic management / signage
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works

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

### **19. Pre-Commencement: Construction Logistics Management plan**

Prior to the commencement of the development, Construction Logistics Management Plan shall be submitted to approved by the local planning authority and so implemented, on site to include the following:

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

Reason: To protect amenities.

## 20. Completion of Access and Quiet Lane Scheme

The access shown on the hereby approved plans, and the Lomas Road Quiet Lane scheme included in the accompanying planning obligation - shall be completed prior to occupation of any of the hereby approved units.

Gradient of the access to be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

Reason: To ensure proper and safe access.

## 21. Wheelchair Accessible Dwellings

The homes should be provided as Part M4(2) standard (accessible and adaptable dwellings).

Reason: To ensure inclusive access.

## INFORMATIVES

### i. Rail

Network Rail is the statutory undertaker for maintaining and operating railway infrastructure of England, Scotland and Wales. As statutory undertaker, NR is under license from the Department for Transport (DfT) and Transport Scotland (TS) and regulated by the Office of Rail and Road (ORR) to maintain and enhance the operational railway and its assets, ensuring the provision of a safe operational railway. Due to the close proximity of the proposed development to Network Rail's land and the operational railway, Network Rail requests the applicant / developer engages Network Rail's Asset Protection and Optimisation (ASPRO) team prior to works commencing. This will allow our ASPRO team to review the details of the proposal to ensure that the works can be completed without any risk to the operational railway. The applicant / developer may be required to enter into an Asset Protection Agreement to get the required resource and expertise on-board to enable approval of detailed works. To start the process with our Asset Protection team, the applicant / developer should use the Asset Protection Customer Experience (ACE) system found on Network Rail's Asset Protection website (<https://www.networkrail.co.uk/running-the-railway/looking-after-the-railway/assetprotection-and-optimisation/>). This website also provides more information about our Asset Protection team and the services they offer. Where applicable, the applicant must also follow the attached Asset Protection informatives. The informatives are issued to all development within close proximity to the railway (compliance with the informatives does not remove the need to engage with our ASPRO team).

## **ii. Highways**

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil. Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority. Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process. Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site. Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissionsand-technical-guidance> . Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

## **iii. Code of Development Practice**

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

## **iv. Surface Water Disposal**

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

**v. Crime Prevention**

Please note the advice of the police crime prevention design advisor in the detailed design of the scheme.

**vi. SAMMs**

This permission has only been granted after receipt of a financial contribution to the Strategic Access Management and Monitoring Strategy in respect of the nearby Special Protection Area.

**vii. Sewers**

The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk) in order to progress the required infrastructure.

**viii. Broadband**

Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high-speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact [broadband@kent.gov.uk](mailto:broadband@kent.gov.uk)

**ix. SUDS**

The following points should be noted wherever infiltration drainage (such as soakaways) is proposed at a site:

- Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks. Clean uncontaminated roof water
- should drain directly to the system entering after any pollution prevention methods.
- No infiltration system should be sited in or allowed to discharge into made ground, land impacted by contamination or land previously identified as being contaminated. There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of the system and the water table.
- A series of shallow systems are



preferable to systems such as deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater. • Where infiltration SuDS are proposed for anything other than clean roof drainage in a Source Protection Zone 1, a hydrogeological risk assessment should be undertaken, to ensure that the system does not pose an unacceptable risk to the source of supply.

Given the impermeable nature of the site we will expect for clarification to be provided as part of the detailed design submission as to how surface water from the 'undeveloped areas' is prevented from entering the positively drained network and exceeding its designed capacity.

Any feature capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse' and we would urge the applicant to contact us prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function. Any works that have the potential to affect the watercourse or ditch's ability to convey water will require our formal flood defence consent (including culvert removal, access culverts and outfall structures). Please contact [flood@kent.gov.uk](mailto:flood@kent.gov.uk) for further information.

#### **x. Contaminated Soils**

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes: Duty of Care Regulations 1991 Hazardous Waste (England and Wales) Regulations 2005 Environmental Permitting (England and Wales) Regulations 2010 The Waste (England and Wales) Regulations 2011 Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at <https://www.gov.uk/government/organisations/environment-agency> for more information.

#### **xi. Highways Approvals and Consents**

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the

ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

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

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

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

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

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

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

This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). 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. 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. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development. In considering the European site interest, Natural England (NE) advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.

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

NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), your officers conclude that off site mitigation is required. In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (normally to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. Your officers 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 Page 30 Report to Planning Committee – 10 March 2022 ITEM 2.1 (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. The Agent has confirmed agreement to pay the SAMMS fee subject to the outcome of the Committee.

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.

**Plans, Drawings and Photos**

Location Plan



Parameter Plan



Illustrative Layout









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**PLANNING WORKING GROUP**

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**MINUTES** of the Meeting held on Land at Tonge Road, Sittingbourne, Kent, ME9 9BD on Tuesday, 21 February 2023 from 10.04 am - 10.32 am.

**PRESENT:** Councillors Steve Davey, Tim Gibson (Chair), Peter Marchington, Ken Rowles and Paul Stephen.

**OFFICERS PRESENT:** William Allwood, Kellie MacKenzie and Alun Millard.

**APOLOGIES:** Councillors Richard Darby, Mike Dendor, Oliver Eakin, James Hall, Mike Henderson, James Hunt, Elliott Jayes, Ben J Martin, David Simmons and Tony Winckless.

**672 DECLARATIONS OF INTEREST**

No interests were declared.

**673 2.1 22/503418/OUT LAND AT TONGE ROAD, SITTINGBOURNE, ME9 9BD**

The Chair welcomed the Applicant's Agent, the Applicant's Traffic Consultant, a member of the public and Members to the meeting.

The Faversham Area Team Leader introduced the outline application with all matters reserved for future determination apart from means of access for 16 dwellings at land at Tonge Road, Sittingbourne. He said the two main issues raised were highway concerns and the impact on the railway line although Kent County Council (KCC) Highways and Transportation had raised no objection, and he said that Mid Kent Environmental Health team suggested two conditions to address potential contamination.

A local resident spoke against the application and raised points which included:

- Concerned about the amount of dwellings already in the locality;
- the development would exacerbate current parking issues;
- refuse vehicles would not be able to access the site safely;
- the local road network was already at saturation point and there was already gridlock on the local roads during peak traffic periods;
- the infrastructure including doctors, dentists etc. could not accommodate further development in the area;
- Tonge Road was used as a rat-run and not suitable for further development; and
- there was a risk that vehicles would park on the proposed walkway.

The Applicant's Agent said that the site was within the built-up area boundary and complied with the relevant planning policies. He advised that with regard to highway safety concerns, their Transport Consultant had provided an Assessment of Traffic in the location.

Planning Working Group

21 February 2023

The Applicant's Traffic Consultant said that KCC Highways and Transportation considered the speed survey figures they had provided were a true record. He said that vehicles were generally travelling 38-39 mph along Tonge Road and the proposed access was designed to cope with vehicles travelling at that speed.

KCC's Principal Transport & Development Planner explained that the speed surveys submitted by the Applicant had informed the design of the access visibility splays. He reported that the front access of the development would be widened to allow two vehicles to pass safely. The Principal Transport & Development Planner said that they were satisfied that the application was acceptable.

Members asked the following questions:

- Could a 20 mph speed limit be imposed if the application was approved?;
- would the road be widened?;
- would there be sufficient space for refuse vehicles to access the site? and
- how many parking spaces would be provided?

In response the Principal Transport & Development Planner said that it was a small-scale development and officers had to ensure that any proposed mitigation measures were reasonable. He confirmed that the road would be widened to 5.5 metres, and the proposed access points would be in accordance with the relevant design standards. He explained that 5.5 metres was wide enough for two large vehicles to pass one another and that refuse lorries kerbside collection could therefore be catered for.

The Faversham Area Team Leader said that two parking spaces for each property and five visitor parking spaces were proposed which complied with the Council's Parking Standards.

In response to a question from a member of the public, the Principal Transport and Development Planner advised that if parking on the proposed footway became an issue, restrictions such as installing double yellow lines could be considered.

#### Chair

Copies of this document are available on the Council website <http://www.swale.gov.uk/dso/>. If you would like hard copies or alternative versions (i.e. large print, audio, different language) we will do our best to accommodate your request please contact Swale Borough Council at Swale House, East Street, Sittingbourne, Kent, ME10 3HT or telephone the Customer Service Centre 01795 417850.

All Minutes are draft until agreed at the next meeting of the Committee/Panel

Planning Committee 5 June 2023

**Table Update for Deferred Item 2 - Land at Tonge Road, Sittingbourne, Kent, ME9 9BD.  
Planning Reference: 22/503418/OUT**

The application was presented to the 25 January 2023 Planning Committee, a Tabled Update was included with the agenda (which is attached).

The officer report in the current agenda erroneously omits reference to the context of the 25 January 2023 Tabled Update.

The key changes in that 25 January 2023 Tabled Update relate to:

- Clarity over the exact wording of the recommendation
- Alteration to Heads of terms to remove the health care contribution and include a contribution for refuse and recycling bins
- Clarity over the way contributions would be index linked.

Officers recommend that the changes set out in the 25 January 2023 Tabled Update form part of the resolution to grant permission of the development.

**Item 2.1 22/503418/OUT Land At Tonge Road Sittingbourne Kent ME9 9BD**

replace **recommendation** with

“RECOMMENDATION GRANT subject to the conditions as set out below and the signing of a suitably worded s106 agreement to secure the developer contributions as set out below. Delegated authority is also sought to amend condition wording and s106 clauses as may reasonably be required”

To ensure consistency of wording across all 3 items.

**Proposed Heads of Terms:**

Delete line item – **Primary Care**

Scheme too small for contributions (is included in 2.3. as part of wider MU2 site).

Replace '~~Quiet Lane~~ **Traffic calming** scheme on Lomas Road'

As KCC no longer use this precise perminology.

Add line Item **Refuse Bins:**

Contributions for bins are as follows:

1 x 180ltr green refuse bin @ £46.60 per bin

1 x 240ltr blue recycling bin @ £46.60 per bin

1 x 23ltr black food bin @ £10.80 per bin

1 x 5ltr kitchen caddy @ £5.40 per bin

Total cost for a full set of bins for a house is £109.40

~~Replace “Please note that these figures are to be index linked by the BCIS General Building Cost Index from April 2020 to the date of payment (Apr-20 Index 360.3) Payments to be made prior to unit occupation.” with~~

“Please note that these figures are to be appropriately index linked and subject to appropriate triggers as may be agreed” as the 2020 baseline applies only to KCC figures

**PLANNING COMMITTEE – 5 JUNE 2023****PART 2**

Report of the Head of Planning

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

<b>2.1 REFERENCE NO - 22/505990/FULL</b>		
<b>APPLICATION PROPOSAL</b> Temporary change of use of land for the provision of a marshalling compound for commercial vehicles, including a welfare cabin and creation of vehicular accesses and 40 staff car parking spaces, for use in conjunction with the regulation of construction traffic accessing Cleve Hill Solar Park.		
<b>ADDRESS</b> Land Between the A299 Staple Street Road And Whitstable Road Graveney Kent ME13 9HT		
<b>RECOMMENDATION</b> Approve		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection (Hernhill Parish Council).		
<b>WARD</b> Boughton And Courtenay	<b>PARISH/TOWN COUNCIL</b> Graveney With Goodnestone	<b>APPLICANT</b> Mr David Fisher <b>AGENT</b> Hobbs Parker Property Consultants
<b>DECISION DUE DATE</b> 03/03/23	<b>PUBLICITY EXPIRY DATE</b> 24/05/23	<b>CASE OFFICER</b> Claire Attaway

**Relevant Planning History****22/503259/SUB**

Submission of Details to Discharge Requirement 12 of The Cleve Hill Solar Park Order 2020 - Construction Traffic Management Plan  
Approved

The Construction Traffic Management Plan (CTMP) approved in September 2022 (22/503259/SUB) sets out what measures will be put in place to minimise the impact of construction traffic on the local highway network during the course of the works. The agreed route to the construction site for construction traffic is from the A299 Whitstable Road/Staple Street Road junction, and subsequently via Head Hill Road, Seasalter Road and Cleve Hill and into the site. This allows for up to 40 deliveries a day to the site between the core working hours of 7am and 7pm, Monday to Friday and 7am until 1pm on Saturdays. A booking system (Delivery Management System) will be used to spread deliveries to the site across the day and to ensure construction vehicles do not meet along the agreed route. Laybys along the A2 and A299 will be used by inbound HGVs if they are likely to miss their proposed delivery slots.

**18/506556/NSIP** Development Consent Order – Cleve Hill Solar Park

The Council were not the decision makers in respect of this Development Consent Order but objected to the scheme. The Development Consent Order was issued by the Secretary of State for Business, Energy, and Industrial Strategy on 28<sup>th</sup> May 2020.

Cleve Hill Solar Park (CHSP), situated close to the village of Graveney, is a Nationally Significant Infrastructure Project. The pre-commencement conditions have all been

discharged and construction work has started. A Traffic Management Group has been set up, which is attended by the applicants, the Council, Graveney and Goodnestone Parish Council, and Graveney Primary School, who meet on a regular basis to discuss issues that arise during the construction works.

## **1. DESCRIPTION OF SITE**

- 1.1 The application site measures approx. 0.75 hectares in area and forms part of an agricultural field of approx. 1.4 hectares, which is classed as Grade 1 agricultural land. It is located within the countryside. The site is roughly a triangular parcel of farmland that is surrounded on all three sides by Staple Street Road, Whitstable Road, and the A299 Thanet Way. The site is bordered by tall mature trees.
- 1.2 The levels across the site are relatively flat with the only notable change to this is the embankment at the southern end of the site where Staple Street Road rises to the bridge over the A299.
- 1.3 The conservation area at Goodnestone is located 385m to the north of the site and the Grade II listed building at Fairbrook Cottage is approx. 500m to the east on the opposite side of the A299. Homestall Farm is situated to the west of the Staplestreet Road overbridge and comprises of a Grade II listed farmhouse and barn.
- 1.4 To the west of the site is the Thanet Way (A299) with a variety of uses including residential and commercial being located on the opposite side. The nearest dwelling known as Yaldings, is situated approx. 65m away to the north of the site.

## **2. PROPOSAL**

- 2.1 This application seeks temporary planning permission to change the use of the land to create a marshalling compound to be used during the construction of the Cleve Hill Solar Park (CHSP) for a period of up to 5 years. It will consist of 12 HGV bays to manage the traffic movements of construction traffic along Head Hill Road and Seasalter Road. It will also include 40 spaces for staff parking. The compound will utilise both an existing access off Staplestreet Road with a new access point also proposed, further along this section of the highway. A self-contained welfare cabin is also included which will be placed on the hardstanding and will include the provision of ten solar panels to the roof. Gas and effluent storage will also be provided. Low level lighting around the welfare unit and parking is proposed. The perimeter of the marshalling compound will be secured using Heras style site fencing.
- 2.2 The marshalling compound will operate Monday to Saturday where HGVs accessing the site would check-in and check-out to ensure deliveries are managed, tracked, and recorded. Staff who park in the holding area would be transported to the construction site via a minibus.

## **3. PLANNING CONSTRAINTS**

- 3.1 BMV Agricultural Land - Grade 1
- 3.2 Designated countryside

## **4. POLICY AND CONSIDERATIONS**

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

**ST1** (Delivering sustainable development in Swale)  
**ST3** (The Swale settlement strategy)  
**ST7** (The Faversham area and Kent Downs strategy)  
**CP1** (Building a strong, competitive economy)  
**CP2** (Promoting sustainable transport)  
**CP8** (Conserving and enhancing the historic environment)  
**DM3** (The rural economy)  
**DM6** (Managing transport demand and impact)  
**DM7** (Vehicle parking)  
**DM14** (General development criteria)  
**DM20** (Renewable and low carbon energy)  
**DM24** (Conserving and enhancing valued landscapes)  
**DM28** (Biodiversity and geological conservation)  
**DM29** (Woodlands, trees and hedges)  
**DM31** (Agricultural land)  
**DM32** (Development involving listed buildings)  
**DM33** (Development affecting a conservation area).

#### 4.2 Supplementary Planning Document (SPD):

'Parking Standards May 2020' and 'The Swale Borough Council Landscape Character and Biodiversity Appraisal.

### 5. LOCAL REPRESENTATIONS

5.1 **Graveney and Goodnestone Parish Council** support the need for a holding area during the development of the CHSP. Since submission, they have clarified that they do not object, but make the following observations:

- It is disappointing that we did not receive notification of this application
- It is important that we are not left with an area which could be used for future vehicle/lorry parking space once CHSP have departed and would like to see this as a condition
- We want reassurance that the membrane covering the working area etc. would not be buried at CHSP site, and that the land will be restored to agricultural use once its use is no longer required
- Access is a major concern on an already busy road, and we feel work needs to be done at this junction and the staggered crossroads adjacent to the site
- Any excess light pollution should be minimised by the use of directional lamps
- The marshalling system needs to encompass the Whitstable Road/Head Hill Road junction, although they are planning to avoid HGV movements at peak times under the Construction Traffic Management Plan
- Loss of tree line/hedgerow – sight lines would not be particularly good and effective marshalling would be of paramount importance - Ideally the holding area should have been located further along Whitstable Road
- We would like reassurances that unauthorised stalls will not be allowed as this adds to the risks at this junction

- In summary, although the holding area is something we have been striving to secure, the location is far from ideal but if consent is granted, conditions will be needed to ensure the road safety aspects, lighting and landscaping issues are correctly regulated.

5.2 **Hernhill Parish Council** (adjacent Parish Council) initially responded to say they object for the following reasons summarised below:

- Loss of established trees and hedgerow
- Inadequate ecological survey
- Considerable highway safety issues and poor access
- Lack of an adequate restitution plan
- If consent is granted, then enforceable conditions should be added for highway safety, site restitution and to enhance future biodiversity value

Following the receipt of additional information, Hernhill Parish Council were re-consulted and raised the following additional concern: -

- The compound is not large enough to enable a full turning circle resulting in lorries having to reverse in/out of the compound which will lead to additional traffic delays.

5.3 Consultation letters were sent to neighbouring properties and a site notice was displayed. Three local objections have been received, raising the following objections: -

- Highway safety – the entrance to this site is on a semi-circle road making it difficult to see stationary traffic. With lorries turning here and entering/leaving the site, this will cause a hazard to vehicles using the highway.
- The dangerous implications of heavier traffic joining/leaving the A299 in search of this site and the scarily short deceleration lane.
- The impact on wildlife – we frequently see rabbits and many varieties of birds using that land.
- Safety of pedestrians – it is already dangerous so the pavement along Whitstable Road should be extended to provide safe passage for pedestrians.
- Loss of trees – how these will be replaced and with which species?
- Litter does not seem to have been thought of and the dust management plan is unlikely to be monitored.
- Light pollution from any lights onsite or lights of the lorries/cars themselves.
- Pollution of the vehicles adding to the local area.
- Noise pollution from increased traffic to/from the site passing along the perimeter of our property and engaging in unavoidable idling whilst on site.
- Groundwater runoff from all of the vehicles polluting the land and water table.



- Restoration of farmland – how will this land be restored once it is no longer needed and how soon after will it be restored back to its original state?
- Loss of view – the proposed development land is elevated from our property so adding onto this elevation at least 12 tall HGVs, a large portacabin and up to 40 cars will result in significant intrusion to our property.
- If approved, request that adequate provision is made to protect us from noise and light pollution by way of extension of acoustic fencing along the perimeter of Whitstable Road and suitable angling of lighting.
- One assumes that the farmland is going to be ‘tarmaced’ to install this parking and 24/7 containers as cabins.
- The site has a narrow entrance within meters of the crossroads, which is less than the length of a HGV – surely this distance is too short.

5.4 The Headteacher at Graveney Primary School supports the proposal, commenting as follows:

*The school has agreed a traffic mitigation plan with Cleve Hill Solar Park and to minimise disruption during the build process. The measures in place include; a 20-mph limit on works HGV vehicles past the school, and a complete ban on works HGV vehicles during drop off and pick up times. The school attends regular meetings with the Traffic Management Group and feels they have already ensured that complaints and concerns are being dealt with thoroughly and promptly.*

*Whilst at present the convoys of HGV vehicles are all being escorted through the village this is not a model solution, the Thanet Way layby where these vehicles are currently being held and released as a convoy is not ideal and means we have several lorries all travelling past the school together.*

*The Traffic Marshalling Compound will provide a much safer holding area and ensure that all heavy good vehicles are accurately tracked when passing through the village of Graveney. Following our discussions within the Traffic Management Group, I feel very confident that the proposed site at the end of Head Hill Road will ensure that vehicles are managed well and keep the safety of the pupils within school as well as all road users in using this route as safe as possible.*

## 6. CONSULTATIONS

- 6.1 **KCC Ecology:** - no objection following the receipt of further information subject to conditions relating to the submission of a Construction Environmental Management Plan (CEMP); details of additional planting to be carried out during restoration of the site, and that a lighting scheme is submitted for approval to ensure the light spill on retained habitats are minimal.
- 6.2 **KCC Highways and Transportation:** - no objection subject to the use of temporary traffic management on Staple Street Road (traffic marshals will use stop and go boards) alongside a temporary speed reduction for the duration of the construction work.
- 6.3 **Natural England:** -no objection.
- 6.4 **The Environment Agency:** -responded to say they had no comments as it falls outside their remit.

- 6.5 **The Council’s Rural Consultant:** - no objection subject to conditions relating to the submission of a soil handling plan and a pre-construction soil resource report to be submitted to ensure the site is returned to pre-construction conditions.
- 6.6 **The Council’s Environmental Protection Team:** - no objection subject to a condition requiring the development to be carried out in accordance with the Dust Management Plan. They also note the site itself may potentially adversely affect residential amenity without the provision of any mitigation measures. Therefore, they recommend that lighting details are submitted for approval before being installed. With regards to the hours of operation, they considered that an 8am start (with non-operational hour prior to this) would be acceptable on Saturdays, and an end time of 6.30pm (with non-operational hour after this) for weekday evenings. They also recommend that battery packs are used as a means of power supply for the first non-operational hour on any day (along with an acoustic barrier to any static noise source).
- 6.7 **The Council’s Conservation Officer:** - no objection
- 6.8 **The Council’s Tree Officer:** - no objection, subject to conditions requiring the replanting of native trees/shrubs to replace those lost in creating the new access and additional planting around the boundary of the site.

## 7. BACKGROUND PAPERS AND PLANS

- 7.1 The application has been supported by the following drawings and documents:

Base Pad Plan; Bearer Positions; Effluent Tank; Elevations; Floorplans; Internal Views; Site Layout; Proposed Solar Panel Position; General Arrangement; Planning Statement; Preliminary Ecological Appraisal; Technical Note; Traffic Management and Swept Paths; Proposed Access Vegetation Impact; Dust Management Plan; Decommissioning and Restoration Plan; Site Location Plan.

## 8. APPRAISAL

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

- Protecting best and most versatile agricultural land
- Highway safety
- Living conditions of neighbouring property

### Location of development

- 8.1 The application site is located within the designated countryside where Policy ST3 of the Local Plan sets out that:

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

- 8.2 The NPPF at paragraph 174 states that “...decisions should contribute to and enhance the natural and local environment by

- a) *protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*

8.3 In this case, as the proposal seeks to mitigate the transport impacts of the construction of the consented CHSP, such considerations need to be carefully balanced against the benefits the proposal will bring to those living along the route to the construction site and to other users of the local highway network.

*Loss of Best and Most Versatile agricultural Land*

8.4 Policy DM31 of the Local Plan sets out that development on best and most versatile (BMV) agricultural land (which this site is) will not be permitted unless (1) it is allocated for development; or (2) there is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and (3) the development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high quality agricultural land.

8.5 The site is not allocated for any form of development and therefore falls to be assessed under criteria 2 and 3. The supporting letter states that the applicant took a site search process in late 2022 to identify the application site. Local land agents were engaged (Hobbs Parker) to maximise the success of finding land parcels or existing transport facilities that met the project requirements. To ensure the best management of the construction traffic, the marshalling compound needed to be located in close proximity to the CHSP site and on the construction traffic delivery route. This required the site to be situated between the A299 junction with Whitstable Road and the point where Head Hill Road enters into the southern end of Goodnestone village. This approx. 500m stretch of road therefore defines the appropriate search for the site which is a reasonable approach. All the farmland within the site search appeared to be Grade 1 but this site is the least agriculturally effective parcel of those assessed due to its constrained form following the construction of the surrounding road. A shortlist of three parcels of land were considered. However, this site was found to be the best balance of impacts and benefits in respect of the project requirements. Due to the relatively constrained nature of the potential site location (i.e., it is required to be located between the main highway routes and the CHSP) and that the entirety of the search area is made up of BMV agricultural land it is considered that criteria 2 has been satisfied.

8.6 In respect of criteria 3, as the parcel of land is effectively an 'island', due to the surrounding highway network this would not lead to a significant loss of high quality agricultural land. Furthermore, the Council's Rural Consultant is satisfied that the implementation of the DDRP will ensure the land can be reinstated to its current agricultural use once the marshalling compound is no longer required. The applicant has agreed to the imposition of a pre-commencement condition requiring a soil resource report and soil handling plan to be submitted before construction works commence. Members will note condition (3) below.

- 8.7 It is important to note that the proposal will not increase the maximum number of HGV movements permitted. This limit is set at 40 HGVs per day (80 two-way movements). The marshalling compound is conveniently and purposely located upon the route used by construction traffic and will intercept construction vehicles as soon as they leave the Strategic Road Network.
- 8.8 On the basis of the above, there is no other obvious alternative site which would be both on agricultural land lower than Grade 1-3a and perform better in wider sustainability terms. Neither will it impact on the viability of farming activities here or result in significant loss of high quality agricultural land. The proposal can therefore be said to satisfy parts 2 and 3 of Policy DM31.

#### Highway Safety

- 8.9 The proposal will mitigate the need to hold HGV's in laybys on the A2/M2/A299 whilst waiting for the go ahead for their delivery time and will result in no additional traffic generation. KCC Highways are satisfied that the proposal will reduce the likelihood of construction vehicles meeting on other sections of the prescribed road.
- 8.10 The site itself will utilise both an existing access point and proposes a new access further along Staplestreet Road. Some concerns have been raised in relation to the turning space available within the site for HGV's, however, as set out in the applicant's Technical Note the bays and turning areas have been designed in accordance with the document 'Designing for Deliveries' (2016). KCC Highways have raised no objection to either the access points, the traffic management proposals or the ability to turn within the site and as such it is considered that matters related to highway safety and convenience have been satisfactorily addressed.
- 8.11 With regards to the provision of EV charging points, this is normally a requirement for businesses where they have permanent staff which helps promote electric car purchases as the facility is in place. Given the temporary nature of the site it is considered that this condition would not be reasonable. However, details of a cycle storage unit have been secured by condition to encourage the use of more sustainable transport means.

#### Character and appearance of landscape

- 8.12 The site is situated some distance away from any designated heritage asset. The Conservation Officer is satisfied that due to the limited built form of development and the intervening tree cover, there would be no harm to the setting of the designated heritage assets.
- 8.13 The site is not subject to any landscape designations, despite this, policy DM24 of the Local Plan sets out 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."*
- 8.14 In addition to the above, the site falls within the 'Faversham and Ospringe Fruit Belt', as defined by the Swale Landscape Character and Biodiversity Appraisal (adopted

September 2011). The guidelines for these areas are to 'conserve and reinforce' with guidance given, amongst other matters to conserve the rectilinear landscape pattern.

- 8.15 As the use is proposed for a temporary period, it will not lead to any permanent impact on the character and appearance of the countryside at this location. Any temporary visual harm will be limited to the provision of the relocatable welfare cabin, the temporary surfacing and the lorry and staff car parking taking place within the already fenced area for the duration of the construction works. However, this will be significantly outweighed by the benefits of effectively managing the construction traffic along the prescribed route as identified above.

#### Ecology

- 8.16 The applicant has submitted a Preliminary Ecological Appraisal to accompany this application. It concludes that a Construction Ecological Management Plan (CEMP) will reduce impact of construction activities on ecological features, that site clearance works during the bird season should be avoided unless checked by a suitably qualified ecologist and that any lighting is low level and avoids the use of high-intensity security lighting.
- 8.17 KCC Ecology notes the site is an actively managed arable field, and the area of greatest ecological interest is the woodland buffer along the western boundary of the site. In order to facilitate the new access, the extent of vegetation to be removed to create the new access is considered acceptable. The CEMP recommends a precautionary mitigation approach is implemented during any vegetation clearance and construction works, and also includes the reinstatement of the existing vegetation following the completion of the construction of CHSP, which can be secured by condition.

#### Living conditions

- 8.18 The site is located approx. 65m from the nearest dwelling therefore any impact upon the neighbouring dwellings in terms of loss of light, outlook, privacy, and any overbearing impacts is considered to be acceptable.
- 8.19 Some concern has been raised by Environmental Health in relation to noise and disturbance. The applicant proposes hours of operation between 7am and 7pm Monday to Friday, and 7am to 1pm on Saturdays, this allows for non-operating hours one hour before and up to one hour after opening hours for start-up and close down activities. Notwithstanding this it is recommended that a condition be imposed that allows for a slightly earlier closing time of 6.30pm on weekday evenings and a later start time of 8am on Saturdays to avoid any significant impact upon the living conditions of adjoining properties.
- 8.20 Directional lighting is likely to be required at the welfare unit, with low level lighting fitted on fencing to facilitate safe access between parking areas and the welfare unit. The applicant suggests this can be controlled with timers or dusk-dawn sensors to suit working hours and reduce the potential for light pollution. A condition requiring the submission of a lighting plan has been imposed to ensure that any lighting is not harmful to the impact upon the living conditions of neighbouring occupier.

#### Air Quality

- 8.21 The proposed site is not located in or within close proximity to an Air Quality Management Area. The proposed use will not create additional vehicle trips that are not

already taking place in light of the CHSP consent order. Moreover, the proposal will help to reduce congestion and thereby assist in reducing air pollution caused by traffic congestion.

- 8.22 The Council's Environment Protection Team are satisfied that the measures to be taken to control dust during the construction and operation of the holding area are acceptable.

#### Drainage and Flood Risk

- 8.23 The site is not located within a high flood risk area. The temporary hard surfacing for the vehicle parking area is to be permeable. The welfare unit will be a relocatable facility and will include a self-contained foul water drainage tank.

#### Other matters

- 8.24 Graveney and Goodnestone Parish Council raise concern that unauthorised stalls could appear at this junction, but this is not a matter that is material to the consideration of this application.

### **9. CONCLUSION**

- 9.1 The site falls outside of any defined settlement boundary under policy ST3 of the Local Plan and in the countryside where there is a general presumption against development unless supported by the NPPF. The temporary use of the land as a marshalling compound will further mitigate the impact of construction traffic on the local community during the construction of the CHSP which is considered to give rise to benefits in this regard. Although Grade 1 BMV land is a finite resource and policies at both local and national level seek to protect it, it is believed that the applicant has sufficiently demonstrated that in the circumstances there is no other site available on land which is not BMV agricultural land. In addition, the land will be reinstated to its current agricultural use once the marshalling compound is no longer needed.

- 9.2 The objections that have been received have been carefully considered. However, based upon the views of consultees and the appraisal of the application as set out above, it is believed that subject to the imposition of the conditions below, the proposal would provide benefits whilst not giving rise to unacceptable harm in regard to living conditions, the character and appearance and highway safety. Taking this into account, it is recommended that planning permission be granted for the proposal.

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

#### **CONDITIONS**

- (1) The use of the land as a marshalling compound hereby permitted shall cease no later than five years beginning with the date on which the permission is granted.

Reason: In order to reflect the temporary nature of the application.

- (2) The development hereby permitted shall be carried out in accordance with the following approved plans:

CHSP Marshalling Compound Site Location Plan J100055/02

Tab 1 of 7 Floor Plan RSF\_WE3209N01A Rev A

Tab 2 of 7 Elevations RSF\_WE3209N01A Rev A

Tab 3 of 7 Base Pad Plan RSF\_WE3209N01A Rev A

Tab 4 of 7 Bearer Positions RSF\_WE3209N01A Rev A  
Tab 5 of 7 Proposed Solar Panel Positions WE3209N01A Rev A  
Tab 6 of 7 Internal Views RSF\_WE3209N01A Rev A  
Tab 7 of 7 Effluent Tank RSF\_WE3209N01A Rev A

Proposed Holding Area Traffic Management & Swept Paths  
81134-CUR-00-XX-DR-TP-75003 Rev P04

Proposed Holding Area General Arrangement 81134-CUR-00-XX-DR-TP-75004 Rev P05

Proposed Access Vegetation Impact 81134-CUR-00-XX-DR-TP-75005 Rev P01

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

- (3) Prior to any work commencing on the site, the following shall be submitted to the Local Planning Authority:

- i) A photographic record of pre-development condition of the site
- ii) A preconstruction soil resource report including contamination testing to establish base levels

In addition, prior to any work commencing on the formation of a new secondary access from the public highway, a soil handling plan for the access area where excavations are to take place shall be submitted and approved in writing by the Local Planning Authority.

Reason: To ensure that the land is restored and reinstated to its preconstruction use and condition.

- (4) No soil excavations shall be undertaken on the site other than for the limited area around the new access as shown on drawing No. 81134-CUR-00-XX-DR-TP-75005 Rev P01.

Reason: To ensure that the development complies with the approved details in the interests of protection of the soil.

- (5) Within six months of either the cessation of the use or the date of which this temporary permission expires (whichever is the earlier) a soil resource report shall be submitted (which shall include details of any remedial works required), to demonstrate that the land has been restored to its pre-construction condition.

Reason: To ensure that the land is restored to its pre-construction condition.

- (6) The development hereby approved shall be carried out in accordance with the details set out in the Draft Decommissioning and Restoration Plan by Envams dated March 2023.

Reason: In order to protect agricultural land.

- (7) The area shown on drawing No. 81134-CUR-00-XX-DR-TP-75004 P05 as staff parking spaces shall be provided before the use is commenced, and this area shall be retained 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 hereby permitted.

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

- (8) The use of the site as a temporary marshalling compound shall be restricted to the operational hours of 7am to 6.30pm on weekdays and 8am to 1pm on Saturdays and shall not take place at any time on Sundays or Bank Holidays.

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

- (9) The use of the site as a temporary marshalling compound shall be restricted to the non-operational hours of 6am to 7am and 6.30pm to 7.30pm on weekdays; 7am to 8am and 1pm to 2pm on Saturdays; and shall not take place at any time on Sundays or Bank Holidays.

Reason: In the interests of the amenities of the area

- (10) Any static noise source within the marshalling compound (e.g., a generator) shall be provided with an acoustic barrier in accordance with details that shall have first been submitted and approved in writing by the Local Planning Authority.

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

- (11) Battery packs will be used as means of power supply during the non-operational hour of 6am to 7am on weekdays, and 7am to 8am on Saturdays.

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

- (12) The development shall be carried out in accordance with the Dust Management Plan by Envams dated February 2023, including the provision of wheel washing facilities for the duration of the construction of the marshalling compound.

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

- (13) The development hereby approved shall be operated in accordance with the details contained within the Technical Note (provided by Curtins, dated 21<sup>st</sup> December 2021) in respect of traffic management arrangements.

Reason: In the interest of highway safety.

- (14) Prior to the use of the site commencing, the temporary marshalling compound shall be provided with secure cycle parking facilities in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

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

- (15) 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. Any lighting installed shall be directional to ensure that the light spill onto retained habitats are minimal. The scheme of lighting shall be installed, maintained, and operated in accordance with the approved scheme.



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

- (16) Any vegetation clearance and construction works carried out during the development shall be implemented in accordance with the Construction Ecological Management Plan (CEMP) included within Appendix I of the Preliminary Ecological Appraisal by Biodiverse Consulting dated 20 December 2022.

Reason: In the interests of conserving protected species.

- (17) Within six months of either the cessation of the use or the date of which this temporary permission expires (whichever is the earlier), landscaping details for the reinstatement of the area of vegetation removal at the new site access, together with the compensatory planting (which shall be native species and of a type that will enhance or encourage local biodiversity and wildlife) within the site amounting to a 100% increase relative to the area removed, and an implementation programme shall be submitted to and approved in writing by the Local Planning Authority.

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

- (18) All landscape works shall be carried out in accordance with the approved details. The works shall be carried out 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.

- (19) 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.

## **INFORMATIVES**

- (1) The applicant is advised that any lighting within the site should only be operational when people are working on site. If security lighting is required, it is recommended that it is on motion sensors to ensure that it is only switched on when it is needed.
- (2) It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the

topsoil.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.

Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

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

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

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

### **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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