

Agenda

Planning Committee Meeting

Date: Thursday, 15 August 2024

Time 7.00 pm

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

Membership:

Councillors Mike Baldock (Chair), Andy Booth, Hayden Brawn, Simon Clark, Kieran Golding, James Hunt, Elliott Jayes (Vice-Chair), Peter Marchington, Claire Martin, Ben J Martin, Richard Palmer, Julien Speed, Paul Stephen, Terry Thompson, Angie Valls, Karen Watson and Tony Winckless.

Quorum = 6

Pages

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- (d) Anyone unable to use the stairs should make themselves known during this agenda item.

2. Apologies for Absence

3. Minutes

To approve the [Minutes](#) of the meetings held on 18 July 2024 (Minute Nos. to follow) as a correct record.

4. Declarations of Interest

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

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

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

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

Part B reports for the Planning Committee to decide

5 - 8

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 14 August 2024.

- | | | |
|----|---|---------|
| 5. | 2.1 - Land to South of Ridham Avenue, East of Swale Way, Sittingbourne, Kent ME10 2SG | 9 - 46 |
| 6. | 2.2 - 64 Maylam Gardens, Borden, Sittingbourne, Kent ME10 1GB | 47 - 56 |

Issued on Monday, 5 August 2024

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 democraticservices@swale.gov.uk. To find out more about the work of this meeting, please visit www.swale.gov.uk

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

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

15 AUGUST 2024

Standard Index to Contents

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

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

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 15 AUGUST 2024

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

PART 2

2.1	23/505752/FULL	SITTINGBOURNE	Land to south of Ridham Avenue east of Swale Way
2.2	24/500984/FULL	BORDEN	64 Maylam Gardens

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PLANNING COMMITTEE – 15 AUGUST 2024**PART 2**

Report of the Head of Planning

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

2.1 REFERENCE NO - 23/505752/FULL		
PROPOSAL Construction of a battery energy storage facility to provide up to 249 megawatts of storage capacity including electrical plant and equipment, landscaping and associated works.		
SITE LOCATION Land to South of Ridham Avenue, East of Swale Way, Sittingbourne, Kent ME10 2SG		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 legal agreement as set out in the report, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be consequently necessary and appropriate.		
APPLICATION TYPE Large Major		
REASON FOR REFERRAL TO COMMITTEE Called into Committee by local Ward Councillors		
Case Officer Simon Greenwood		
WARD Kemsley	PARISH/TOWN COUNCIL N/A	APPLICANT Ouse Energy Ltd AGENT N/A
DATE REGISTERED 16.01.2024		TARGET DATE 31.08.2024
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - Application Boundary Figure 1 Layout Plan Figure 2 Site Layout Plan KEM-ACM-DR-CE-1001 Rev. G Landscape Masterplan 60712158-ACM-ELS-S1-Z_Z_Z_DR-LA-0001 Rev. P04 Construction Compound Plan KEM-ACM-DR-CE-1012 Rev. B Site Cross Section – Section A KEM-ACM-DR-CE-1002a Rev. A Site Cut Fill Plan KEM-ACM-DR-CE-1005 Rev. B Battery and PCS Units Indicative Elevations KEM-ACM-DR-CE-1003 Rev. A Drainage Strategy KEM-ACM-DR-CE-1019 Rev. B Main Switch Room Indicative Elevations and Floor Plan KEM-ACM-DR-CE-1003b Rev. B Vehicle Swept Paths Crane and SQT Specialist Vehicle KEM-ACM-DR-CE-1010 Rev. B		

Vehicle Swept Paths Fire Engine KEM-ACM-DR-CE-1009 Rev. B
Typical Road Detail KEM-ACM-DR-CE-1004 Rev. A
Access Road Junction Detail KEM-ACM-DR-CE-1004B Rev. B
Access Road Junction Detail KEM-ACM-DR-CE-1004C Rev. C
Internal Road Layout Plan and Profiles Sheet 1 of 3 KEM-ACM-DR-CE-1006 Rev. B
Internal Road Layout Plan and Profiles Sheet 2 of 3 KEM-ACM-DR-CE-1007 Rev. A
Internal Road Layout Plan and Profiles Sheet 3 of 3 KEM-ACM-DR-CE-1008 Rev. A
Site Drainage Plan KEM-ACM-DR-CE-1011 Rev. E
Planning, Design and Access Statement prepared by Aecom (December 2023)
Landscape and Visual Appraisal prepared by Aecom (December 2023)
Desk Based Heritage Assessment prepared by Aecom (December 2023)
Habitat Regulations Assessment Report prepared by Aecom (December 2023)
Ecological Appraisal Report prepared by Aecom (December 2023)
Transport Statement prepared by Aecom (December 2023)
Flood Risk Assessment prepared by Aecom (December 2023)
Acoustic Impact Assessment prepared by Aecom (18 December 2023)
Fire Management Plan prepared by Aecom (24 November 2023)
Surface Water Management Plan prepared by Aecom (25 March 2024).

All representations received.

The full suite of documents submitted pursuant to the above application are available via the link below: -

<https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S5X8S4TYKM400>

1. SITE LOCATION AND DESCRIPTION

- 1.1. The approx. 4.7ha application site is broadly triangular in shape and predominantly comprises open, rough grassland. Kemsley Paper Mill is located to the north beyond which there is further industrial development whilst the B2005 Swale Way with parallel overhead power lines lies to the south and west, beyond which there is residential development. There is open land to the east which extends beyond the Sittingbourne & Kemsley Light Railway (SKLR) to Milton Creek. The nearest properties are located on Recreation Way approximately 100m to the west of the application site.
- 1.2. Land levels change considerably across the site and range from approx. 14.5m AOD at the north-western end (near the Paper Mill car park) to approx. 3.5m AOD at the south-eastern end.
- 1.3. Castle Rough is a Scheduled Ancient Monument (SAM) situated on the edge of the marshland area at the foot of the slope from Kemsley Down, and to the east of the

application site. Castle Rough is described in more detail in the Heritage section of this report.

- 1.4. Milton Creek Local Wildlife Site (LWS) is located to the south of the site and supports locally and regionally important habitats including ponds, wildflower meadows and grasslands.
- 1.5. The North Kent Marshes Area of High Landscape Value (AHLV) and the North Kent Marshes: Medway Marshes Local Landscape Area (LLA) lie to the south and east of the application site. Most of the site lies within the Chetney and Greenborough Marshes Landscape Character Area (LCA).
- 1.6. The site is located within Flood Zone 1 and therefore has a low risk of flooding. There is an area to the south of the site within the applicant's control which predominantly lies within Flood Zones 2 and 3. This area is outside of the red line of the application site but is identified within a blue line on the site location plan. This area includes the Castle Rough SAM site and is proposed to accommodate landscaping and a footpath. It has been excluded from the application site to negate the requirement to undertake a sequential test which would be required for development in Flood Zones 2 and 3.
- 1.7. The site lies within an area of Potential Archaeological Importance
- 1.8. The site lies within the built-up area boundary of Sittingbourne, as identified in the Local Plan.

2. PLANNING HISTORY

- 2.1. An application was received in November 2021 for the construction of a HGV lorry park with on-site portable buildings for driver welfare facilities including admin office, male and female toilet, wash, laundry and cafe food catering (ref. 21/506358/FULL). Concerns were identified in relation to ecology, heritage and highways matters which were not resolved. The application was not determined and was finally disposed of in May 2024.
- 2.2. Outline planning permission for up to 8,000m² Class B1 and B2 floor space and all necessary supporting infrastructure including roads, parking, open space, amenity landscaping, biodiversity enhancement and buffer to the proposed extension to Milton Creek Country Park was granted in July 2016 (ref. 14/500327/OUT). This permission has not been implemented and has now lapsed.
- 2.3. It is noteworthy that the approved scheme incorporated a number of measures to address the heritage and landscape constraints of the site as follows:
 - Approx. 13.31ha extension of and Milton Creek country park to the south-east of the site including landscaping, new footpath, visitor car parking (30 spaces), footpath improvements and Castle Rough interpretation board. The country park extension would have been transferred to the Council's ownership.
 - Extensive landscaping throughout the site
 - Maximum heights of buildings 9m to southern part of site rising to 10.2m to centre of site and 11.4m-12m to north of site with highest buildings located closest to the paper mill.

Other relevant cases

2.4. Approval of details to discharge Requirement 3 of the Cleve Hill Solar Park was sought under application ref. 23/503812/SUB. Requirement 3 related to approval of a Battery Safety Management Plan. The application was refused by the Council's Planning Committee on 24 February 2024 on grounds that the Battery Safety Management Plan fails to demonstrate that risks to public safety have been adequately assessed by virtue of a lack of on-site water storage capacity; insufficient access to the battery storage enclosure in the event of a fire and the lack of a detailed emergency evacuation plan and risk assessment. The application was subsequently allowed at appeal (ref. APP/V2255/3343902).

3. PROPOSED DEVELOPMENT

3.1. Planning permission is sought for the construction of a battery energy storage facility to provide up to 249 megawatts (MW) of storage capacity including electrical plant and equipment, landscaping and associated works. The proposed development will comprise the following elements:

- Up to 105 Battery Energy Storage System (BESS) units housed within a containerised unit measuring approx. 2.6m x 2.42m x 12.18m
- Up to 55 Power Conversion System (PCS) units measuring approx. 2.6m x 2.42m x 6.10m to support the above
- Up to 5 Distribution Switch Rooms with auxiliary transformation units - 5.0m x 6.0m x 13.0m
- Substation compound (12.5m x 35m x 108m) comprising an enclosed Super Grid Transformer (SGT) that steps up the electricity voltage prior to export to Kemsley Substation.
- Main switch room (5.0m x 13.0m x 28.0m)
- Water tanks for firewater storage
- Welfare facilities (2.6m x 2.42m x 12.18m)
- Spares parts and maintenance storage facilities
- Access points via Swale Way (primary) and Ridham Avenue (emergency)
- 4m wide internal access road and 6m wide perimeter road.
- Parking provision for up to 17 vehicles
- Perimeter fencing
- Drainage infrastructure including attenuation basin
- Landscaping and ecological enhancement area.

3.2. The storage capacity of up to 249MW refers to the maximum capacity that can be delivered onto the transmission network within a one-hour period. This is an industry standard measure of storage or generation capacity. The applicant advises that with current technology the site is likely to export at a maximum 249MW continuously for up to 2 hours. This capacity could increase or reduce over the course of the operational life of the installation subject to technological advancements or deterioration of the batteries. However, the BESS units and layout will not change, and the site will not export more than 249MW within any one-hour period.

3.3. The layout of the proposed development responds to the constraints of the sloping site with the BESS units installed on a series of banks arranged broadly south-west to

north-east with a minimum 3m separation between the units. The batteries would be housed within a containerised unit similar in appearance and scale to a shipping container which can be painted in a choice of colour to minimise the visual impact.

- 3.4. The 'blue line' area to the south of the application site within Flood Zones 2 and 3 will accommodate landscape planting to screen the development from the Castle Rough Scheduled Monument, the Local Landscape Area and the Milton Creek LWS to the east and south. The landscape planting will include native hedgerow, tree and grassland planting to provide ecological enhancements. The tree planting will involve trees of a suitable maturity to provide screening to Castle Rough upon implementation with species selected for their eventual height to further enhance the screening of the development. A footpath is proposed to provide public access to an area overlooking the Castle Rough SAM which will feature an interpretation board to provide information about the monument. The landscaping, footpath, interpretation board and subsequent maintenance will be secured through a Section 106 agreement as they will be located outside of the application site.
- 3.5. The proposed development is intended to assist the transition from fossil fuel-based electricity generation to renewable and low carbon sources of generation. It will help address a key challenge associated with the intermittent supply from renewable energy sources such as wind and solar by providing the means to store and release electricity and thereby address fluctuations in supply and demand.
- 3.6. Access to the proposed development site is to be provided from an existing bellmouth junction on Swale Way as well as a proposed emergency access via Ridham Avenue.

CONSULTATION

- 3.7. One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper in accordance with statutory requirements. The application was identified as a departure from the development plan. Full details of representations are available online.
- 3.8. 4 letters of representation were received in relation to the consultation. Concerns/comments were raised in relation to the following matters: -

Comment	Report reference
Proposed development will further increase traffic, noise, disturbance, air and light pollution during construction and operational stages to the detriment of the residential amenities of the occupants of neighbouring properties including enjoyment of gardens and outside space.	4.11-4.13 and sections 8.10, 8.11, 8.15 and 8.16
Devaluation of property and moving house will be harder.	8.17.1

Loss of outlook/view from neighbouring properties.	8.16.1
Detrimental impact on wellbeing and human health given proximity to residential dwellings, including from pollutions and electromagnetic radiation.	Sections 8.11, 8.15 and 8.16
Compensation should be payable to enable relocation of neighbouring residents.	8.17.2
Harm to wildlife at the local country park due to disruption of long-established land and habitats.	8.9.5-8.9.11
Net Zero agenda should avoid negative impacts on local communities.	8.16.1

4. REPRESENTATIONS

- 4.1. **Historic England**:- The proposal would result in some (less than substantial) harm but the mitigation measures proposed are sensible and have responded to our concerns. Harm stems from intervisibility with the monument and upper part of the proposal site; the planting of mature trees is a response to lessen (but not completely remove) this impact. The plantation buffer to the south of the proposal reduces the open context of the monument (which makes it more difficult to understand its landscape context) but provides screening for the lower part of the proposed development to reduce visual harm.
- 4.2. The public access and interpretation board is a heritage benefit to add to the overall public benefit and is welcomed.
- 4.3. **SBC Heritage** - As noted by Historic England, the proposal would result in some (less than substantial) harm to the Castle Rough scheduled monument. The public benefits of the proposal should be weighed against this harm in accordance with paragraph 202 of the NPPF.
- 4.4. **SBC Urban Design**: - No objections raised. Impact of the installation could be mitigated through appropriate choice of paint colour such as a shade of green.
- 4.5. **Economic Development Officer**: - Swale's economy continues to provide a general under-supply of jobs in the Borough relative to the size of the workforce, with a high proportion of residents out-commuting to higher paid jobs elsewhere. The strongest sectors locally are manufacturing, transport/storage and construction.
- 4.6. The gains that have been made in total employment have started to close the 'employment density' gap but Swale currently has an increasingly limited supply of employment land, with take up, particularly from the industrial sectors, proving strong. At present we are seeing a mix of demand for both speculative and bespoke

development, across a range of sizes, from large scale distribution space to smaller modular units. It is increasingly difficult to direct interested parties to land that is suitably allocated.

- 4.7. This demand for industrial land is expected to continue, reflected in the Council's recent update of its Employment Land Review (October 2023). Against this backdrop we would be not generally welcome the loss of allocated employment sites to other uses.
- 4.8. I note the comments of the developer indicating that, whilst the site was marketed by the landowner with an outline planning approval in place, it is understood that to deliver such employment floorspace the costs of required mitigation have made the delivery of the employment floorspace unviable. I have not seen any development feasibility work that demonstrates whether development on the site would be viable. However, my understanding of the site is that the topography and its position relative to areas of both heritage and environmental interest would mean that there would be abnormal development costs.
- 4.9. **KCC Minerals**:- No comments.
- 4.10. **KCC Archaeology**: - There is evidence of Bronze Age, Iron Age and early Roman period activity on the site. Archaeological features on the site are likely to be present at a shallow depth below ground level and therefore virtually all groundworks relating to any future development will have a potentially detrimental impact on the surviving archaeological resource. Accordingly, a planning condition securing further archaeological evaluation and mitigation is requested (No. 15).
- 4.11. **Mid Kent Environmental Health**: - The applicant has undertaken a noise survey to establish an acoustic baseline. In view of the context of the site it is recommended that any noise from the plant should be 1dB below the measured background. The plant to be used on site has yet to be decided and it is therefore recommended that the Noise Impact Assessment be revised to include assessment of the plant (and the effects of acoustic enclosures/barriers) when this becomes known and the recommended noise measures be secured by condition (Nos. 9 and 10).
- 4.12. The site is not in a known area of land contamination, though it is close to both known and potential sites to the north and east. There is potential for personnel to be exposed to contaminants during construction works. It is therefore recommended that a Phase 1 investigation be undertaken to ascertain the presence of any localised contaminants (conditions 3 and 4).
- 4.13. Details of the lighting should be secured by condition (No. 20). A Code of Construction Practice (CoCP) should be secured to demonstrate how the construction phase is to be managed, including in terms of noise and dust (condition 8).
- 4.14. **Lower Medway Internal Drainage Board**:- No objections raised subject to conditions securing details of drainage (Nos. 12-14) and informatives.
- 4.15. **KCC Ecology**: - No objections raised subject to conditions securing a Precautionary Method of Works (PRoW) and badger surveys (Nos. 17 and 18).

- 4.16. **KCC SUDs:** - No objections raised subject to conditions securing a detailed surface water drainage scheme, a verification report upon its installation and details of future maintenance (Nos. 12-14).
- 4.17. **KCC Highways:** - No objections raised subject to conditions securing a Construction Management Plan and details of access and drainage (Nos. 5-7 and 12) and informatives.
- 4.18. **Environment Agency:** - The majority of the site is located within Flood Zone 1, as described in the submitted Flood Risk Assessment. The southern boundary of the site is affected by Flood Zone 3, and site layout plans show no development within this area. We are pleased to note that additional measures to raise development above ground level are recommended. This will add resilience to the development and allow for the impacts of climate change. *Officer note: the site boundary was amended further to the receipt of the EA comments and the application site now lies entirely within Flood Zone 1.*
- 4.19. **Natural England:** - No objections raised. The proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- 4.20. **Southern Water:** - No objections raised. Informatives are recommended.
- 4.21. **Kent Fire & Rescue:** - The application is accompanied with sufficient information to align with the Grid Scale Battery Energy Storage System (BESS) planning guidance provided by the National Fire Chiefs Council (NFCC). This guidance recognises that a full specification is not required at this stage and is cognisant that rapidly changing technology, deeper understating of risk and mitigation measures associated with BESS sites will affect the emergency response plan of the Fire and Rescue Service. The emergency response plan is not fully developed but provides sufficient outline information to demonstrate that a safe and effective emergency response can be provided. A condition is requested to secure further details of the battery composition and design, fire suppression systems, fire water runoff design and a full emergency response and risk management plan (No. 16).
- 4.22. **Kent Police:** - No objections raised. Informatives are recommended.
- 4.23. **UK Power Networks:-** There are cables on the site running within close proximity to the proposed development and accurate records should be obtained from UKPN prior to development.

5. NATIONAL STRATEGY

- 5.1. At a national level, relevant acts, strategies and white papers underpin the government's drive towards decarbonisation of the energy sector. These provide support for the proposed development and are summarised as follows:
- The Climate Change Act 2008 included legally binding targets to reach net zero in greenhouse gas emissions by 2050. Decarbonisation of the energy sector is key to the Government's net zero strategy.

- The Energy White Paper (December 2020) anticipates the transformation of the UK's energy system, including a doubling of demand for electricity by 2050 with the electrification of sectors including transport and heating. The Paper states that demand will be met through a four-fold increase in clean electricity generation, including from wind and solar complemented by technologies including grid-scale batteries.
- The British Energy Security Strategy (April 2022) sets out the UK government's approach to providing secure, clean and affordable energy for Britain. The Strategy anticipates the development of a more flexible and efficient energy system through promoting the delivery of large-scale, long-duration electricity storage.
- The UK Battery Strategy (November 2023) sets out the government's vision for the UK to achieve a globally competitive battery supply chain by 2030. The Strategy is largely focused on battery manufacture but highlights the primary uses of batteries in grid-scale BESS and importance of these in supporting the transition to a clean and efficient energy system.

6. DEVELOPMENT PLAN POLICIES

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

- ST 1** (Delivering sustainable development in Swale)
- ST 3** (The Swale Settlement Strategy)
- ST 5** (The Sittingbourne settlement strategy)
- CP 1** (Building a strong, competitive economy)
- CP 4** (Requiring good design)
- CP 7** (Conserving and enhancing the natural environment)
- CP 8** (Conserving and enhancing the historic environment)
- DM 6** (Managing transport demand and impact)
- DM 7** (Vehicle parking)
- DM 14** (General development criteria)
- DM 19** (Sustainable design and construction)
- DM 20** (Renewable and low carbon energy)
- DM 21** (Water, flooding and drainage)
- DM24** (Conserving and enhancing valued landscapes)
- DM 28** (Biodiversity and geological conservation)
- DM 29** (Woodlands, trees and hedges)
- DM 34** (Scheduled monuments and archaeological sites)

6.2. Supplementary Planning Guidance/Documents

- Parking Standards (2020)
- Swale's Landscape Character and Biodiversity Appraisal (2011)
- Swale Landscape Assessment (2019)

7. CLIMATE AND ECOLOGICAL EMERGENCY

- 7.1. Swale Borough Council declared a climate and ecological emergency on 26 June 2019 and through its Climate and Ecological Emergency Action Plan, 2020 (CEEAP) has made a firm commitment to the borough becoming a carbon neutral Council by 2030.

8. ASSESSMENT

- 8.1. This application is reported to the Committee at the request of Cllr Wise and Cllr Carnell.

- 8.2. The main considerations involved in the assessment of the application are:

- Principle of Development
- Landscape and Visual
- Heritage
- Archaeology
- Character and Appearance
- Trees
- Ecology
- Transport and Highways
- Air Quality
- Flood Risk, Drainage and Surface Water
- Contamination
- Fire Safety
- Noise
- Living Conditions.

8.3. Principle

- 8.3.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 8.3.2. The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan. Chapter 14 of the NPPF specifically relates to meeting the challenge of climate change stating that the planning system should support the transition to a low carbon future and support renewable and low carbon energy and associated infrastructure.
- 8.3.3. Local Plan Policy ST 1 provides support for the expansion of renewable energy in the borough. Local Plan Policy DM 20 promotes development which delivers renewable and low carbon energy generation with an emphasis on solar and wind. The policy does not address the development BESS installations; however; it is

- acknowledged that these are critical components of an energy system involving wind and solar generation.
- 8.3.4. The application site is located within the Sittingbourne built-up area boundary which is identified under Local Plan Policy ST 3 as the primary urban focus for growth in the Borough. The site is therefore considered suitable for development in line with the Swale settlement strategy.
 - 8.3.5. Local Plan Policy ST 4 details land allocation for new development to meet targets for industrial/office floorspace. The application site is allocated to deliver 8,000m² industrial floorspace.
 - 8.3.6. Local Plan Policy CP 1 is concerned with building a strong and competitive economy and promotes development which supports economic development and employment. The proposal would conflict with Policy CP 1 part 5 as it would not bring forward the stock of existing committed employment sites for industrial use. It would also require consideration against Part 7 of the policy which requires that development proposals avoid diminishing of existing employment sites and allocations where appropriately located and suitable, viable for users under normally functioning economic conditions and required to meet the identified needs for the plan period.
 - 8.3.7. Local Plan Policy A 2 is specifically concerned with the application site and states that planning permission will be granted for employment uses (use classes B1 (now class E(g)), B2 or B8) on the site and the allocation identifies that it can accommodate up to 8,000m² floorspace. The policy sets out a series of requirements that development of the site will address landscape and visual, heritage, residential amenity, archaeology, highways and sustainability matters.
 - 8.3.8. The supporting text to Policy A 2 at paragraphs 6.3.1-6.3.5 addresses the opportunities and constraints of the site. It identifies that the site's main strengths are its good local road access to the A249 and proximity to existing employment activities. Para. 6.3.4 identifies that development of the site will need to be led by its landscape and heritage context with its siting, massing, design (inc. external lighting) and landscaping needing to minimise and mitigate visual impacts as far as possible, alongside the preservation and enhancement of the setting of the scheduled monument.
 - 8.3.9. Battery energy storage does not fall into a single use class and would therefore be categorised as 'sui generis', which is not a land use for which planning permission would be granted on the application site under Policy A 2 of the Local Plan, and therefore the proposal does not accord with the policy.
 - 8.3.10. The Council's updated Employment Land Review (October 2023) addresses the supply of employment land and states that *"with strong take-up in recent years, supply is now tighter, and the requirement via the past trends in completions approach produces a higher requirement compared to that in 2018 at 73 ha – with demand of 48 ha, plus a margin of 25 ha. Pragmatically the Council could view the 48 ha (of new land) as the minimum needed for the plan period, with the higher 73*

ha requirement (inclusive of the 25 ha margin) the target to aim for” (paragraph xii Executive Summary).

- 8.3.11. The Council's Economic Development Officer has raised concerns regarding the loss of a site allocated for business use in the context of increased demand and a lack of supply of business floorspace.
- 8.3.12. The applicant has submitted a Briefing Note including a statement from the landowner which addresses matters including the viability of the business park and marketing of the site, and includes the following points:
- Following the grant of outline planning permission for a business park the commercial units on the site were marketed on behalf of the landowner for lease or sale. There was insufficient demand from the market to warrant the cost of the works to implement the scheme which included the necessary infrastructure, mitigation of heritage and landscape impacts and removal of material from the site. The marketing demonstrated that the delivery of the employment floorspace at a value which was attractive to the market was unviable. The planning permission duly lapsed.
 - Harrisons, the local estate agent, have maintained two signs on the perimeter fence of the site but to date only one credible party, a HGV park operator, have shown interest in the site but this interest has fallen away. As noted above this planning application was not progressed, due to concerns identified in relation to ecology, highways and heritage.
 - The site has failed to secure any employment opportunities since the grant of planning permission for its allocation and the future prospects for developments at viable scale are considered increasingly unlikely due to abnormal costs associated with mitigation measures. Hence the landowner has sought interest from parties looking at suitable alternative uses for the site.
- 8.3.13. The applicant has not submitted detailed evidence of unsuccessful marketing of the site or show that the delivery of the approved business development was constrained by the associated costs, including landscape and heritage mitigation, to the point where the scheme was unviable. However, the information submitted would appear to have some credibility. There is evidence of the two signs on the perimeter of the site which suggests ongoing marketing. The topography of the site and the landscape and heritage constraints have significant cost implications as reflected in the mitigation measures incorporated into the approved scheme. These included extensive landscaping, low building heights in particular to the southern part of the site and the extension to the Milton Creek Country Park. Whilst the Council's Economic Development Officer has raised concerns regarding the loss of a site allocated for business use, he acknowledges the abnormal costs associated with the mitigation measures. It can also be noted that any future planning application for a business use would now be required to address the loss of the existing habitat by providing a minimum 10% Biodiversity Net Gain (BNG) either on-site (at the expense of developable land) or off-site, with associated costs.
- 8.3.14. It is noted that Local Plan Policy A 2 will have carried some weight in the emerging and then the adopted Local Plan for around 10 years. Within that time the site has

not been developed for its allocated use despite planning permission being granted for a business park in 2016 against a backdrop of significant demand for business floorspace, as identified by the Council's Economic Development Officer. It is reasonable to assume that the landowner would have been seeking to develop and therefore achieve a return on the site over this time period and made efforts to do so, including through obtaining planning permission. It is therefore considered that the information submitted regarding the viability and marketing of the site has some credibility and can be afforded some weight.

- 8.3.15. The proposal conflicts with Policies A 2 and CP 1(5) of the Local Plan. Policy CP 1(7) of the Local Plan seeks to avoid the diminishing of existing employment sites and allocations which are viable for users under normally functioning economic conditions. Based on the submitted information, there is doubt that the site represents a viable proposition for business development, as set out above, and therefore the degree of conflict with Policy C 1(7) of the Local Plan is considered more limited. It is therefore appropriate to consider the merits of the proposed development and other relevant matters which could weigh in favour of the proposal against the harm arising as a result of land use conflict with the site allocation.
- 8.3.16. The development of a local plan, including gathering the evidence to underpin its policies, is a long-term process. It should be noted that demand for BESS facilities has emerged relatively recently and the need to accommodate such facilities was not considered through the Local Plan process and is unlikely to be reflected in local plans UK wide. The proposal is an essential facility to support the UK's transition to renewable energy and energy security which needs to be accommodated. The proposal is supported by the national strategy set out at Part 6 of this report. BESS facilities do not benefit from a specific use class and can therefore only be accommodated on sites which are allocated for other uses or are not identified for development. The applicant advises that the site has been identified as particularly suitable for the proposed use as it is located in close proximity to the point of connection to the National Grid at Kemsley sub-station whilst benefitting from excellent road access and separation to nearby residential development. It is further noted that the site is located within the built-up area of Sittingbourne and does not comprise open countryside.
- 8.3.17. The proposed development would not result in operational stage amenity impacts which could result from a B Class use such as those arising from increased traffic, noise and air pollution. The scheme will generate employment and economic benefits at construction stage and will support a small number of jobs relating to operation and maintenance of the facility at operational stage. The battery units are narrow and low in height can therefore respond to the contours of the site and successfully address the landscape and heritage constraints of the site, as identified in the relevant sections of this report.
- 8.3.18. Local Plan Policy A 2 sets out a series of requirements in relation to the anticipated business development of the site and whilst the proposal does not meet the key requirement of the policy to deliver a business use it is relevant to consider the proposal against the further policy requirements.

- 8.3.19. The subsequent sections of this report identify that the proposed development can be considered to satisfactorily respond to Local Plan Policy A 2 part 1 in terms of minimising the potential visual, heritage and residential amenity impacts of development through high quality integrated landscape-led design.
- 8.3.20. The proposal does not facilitate an extension to the Church Marshes country park to bring about enhancements to the significance, condition, appearance and appreciation of the wider landscape, biodiversity and heritage of the area, as required by Policy A2(2). This was included within the previously approved business park scheme but the adjacent site which provided the country park extension is not within the applicant's control. It is understood that the Country Park extension was incorporated into the proposal following discussions around measures to mitigate heritage impacts and it is noted that heritage objections have not been raised to the current proposal.
- 8.3.21. Policy A2 (3) states that development of the site should achieve the preservation and enhancement of the Scheduled Monument (including its setting). The heritage section of this report identifies some less than substantial harm to the setting of the SAM which is outweighed by the public benefits of the proposal. These include a footpath to facilitate viewing of the SAM and an interpretation board to provide information. The proposal is therefore considered acceptable in terms of its impact on the SAM, including its setting. The development would involve an archaeological evaluation of the site in accordance with Policy DM34 of the Local Plan and respond accordingly. The proposal can therefore be considered to satisfactorily respond to Policy A2(3) of the Local Plan.
- 8.3.22. The proposal will result in negligible highways impacts at operational stage and therefore the requirement of Policy A2(4) of the Local Plan to contribute toward improvements to highway infrastructure, where identified by a transport assessment, is not considered relevant.
- 8.3.23. Policy A 2(5) of the Local Plan requires that proposals bring forward sustainable design and construction, renewable energy and sustainable urban drainage measures in accordance with Policies DM 19 - DM 21 of the Local Plan. Whilst the sustainable design and construction and renewable energy requirements clearly relate to the business units anticipated under the policy, it is noteworthy that the proposal would provide critical renewable energy infrastructure. The proposal incorporates satisfactory sustainable urban drainage measures as set out in the Flood Risk and Drainage Section of this report.
- 8.3.24. It is noted that the proposal is consistent with and supported by UK government energy policy as set out at part 6 of this report.
- 8.3.25. The land use consideration is relatively finely balanced in this case. The proposal would not bring forward a business use in line with the site's allocation. However, having regard to the considerations set out above, it may be accepted that there is some justification for the proposed use which would deliver an essential piece of infrastructure to support the UK's transition to renewable energy. It is considered that the proposal can be supported in land use terms.

8.4. Landscape and Visual

- 8.4.1. The NPPF requires decisions to ensure that development is ‘*sympathetic to... landscape setting*’.
- 8.4.2. The supporting text to Local Plan Policy A 2 notes that due to the open and exposed landscape across Milton Creek and the Church Marshes Country Park the site forms part of a highly visible landscape with distinctive landscape features. Visual impacts are lessened to some degree by the backdrop of the imposing mill complex; however, due to the prominent position and sloping nature of the site it is important that adverse landscape impacts are avoided. Accordingly, development of the site should be landscape (and heritage) led with the visual impacts of development mitigated as far as possible.
- 8.4.3. The application is accompanied by a Landscape and Visual Appraisal (LVA) which is based upon a 1km study area which includes the following landscape designations:
- North Kent Marshes Area of High Landscape Value (AHLV) (identified in Local Plan)
 - North Kent Marshes: Medway Marshes Local Landscape Area (LLA) (identified in the Swale Local Landscape Designations Review and Recommendations (October 2018))
 - Chetney and Greenborough Marshes Landscape Character Area (LCA)
 - Luddenham and Conyer Marshes LCA
 - Iwade Arable Farmlands LCA (LCAs identified in the Swale Landscape Character and Biodiversity Appraisal (November 2011)).
- 8.4.4. The supporting text to Local Plan Policy A 2 acknowledges that due to the open and exposed landscape across Milton Creek and the Church Marshes country park, this is a highly visible landscape with distinctive landscape features.
- 8.4.5. The proposal involves landscape planting which will provide partial screening from road users and residential properties and will integrate the proposed development into the wider landscape. In terms of landscape effects, the LVA identifies minor adverse effects upon the North Kent Marshes LLA and the Chetney and Greenborough Marshes LCA during the construction and operational stages of development. It identifies a negligible adverse effect on the Luddenham and Conyer Marshes LCA during the construction and operational stages of development.
- 8.4.6. Seven viewpoints to the west, south and south-east of the application site were selected to assess the visual effects of the proposed development. In terms of construction stage impacts the LVA identifies a negligible adverse effect from 2 viewpoints and a minor adverse effect from the remaining 5. Upon reaching operational stage there will be a negligible adverse effect from 3 viewpoints, a minor adverse effect from 3 viewpoints and a moderate adverse effect from one viewpoint on Swale Way.
- 8.4.7. The LVA identifies some minor landscape and visual effects and a moderate operational stage visual effect when viewed from Swale Way. It is noted that the

application site is identified within the Sittingbourne built up area boundary defined within Local Plan Policy ST 3 and is specifically identified for development under Local Plan Policy A 2. Paragraph 6.3.7 of the Local Plan acknowledges that it is likely that it will not be possible to remove all adverse impacts upon landscape. It is also acknowledged that views of the development will generally be experienced within the context of existing large scale heavy industry.

- 8.4.8. Paragraph 6.3.7 of the Local Plan identifies an opportunity to promote landscape and biodiversity benefits through enhancements to adjacent land under the same ownership as the application site. However, it should be noted that the applicant does not control the land adjacent to the application site.
- 8.4.9. The site lies within the built-up area of Sittingbourne and is allocated for development with an acknowledgement that a degree of landscape impact is anticipated. Having regard to the context of the site, the height and scale of the proposed installations along with the extensive landscape screening it is considered that the landscape and visual effects of the development have been mitigated as far as possible in landscape terms. Overall, there will be some generally minor adverse impacts in landscape and visual terms once the development is operational and these impacts are considered in the overall planning balance.

8.5. Heritage

- 8.5.1. The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 8.5.2. The Ancient Monuments and Archaeological Areas Act 1979 provides the legislative framework for protection of Scheduled Monuments across Great Britain.
- 8.5.3. Local Plan Policy DM 34 states that development will not be permitted which would adversely affect a scheduled monument and/or its setting.
- 8.5.4. The Castle Rough scheduled monument is located directly to the east of the site boundary. It is a medieval moated settlement site, consisting of a waterlogged moat defining an island on which the buildings of a manor would have stood. The site is of particular importance because although its medieval buildings no longer exist above ground, most of the remainder of the site survives to a great extent intact as buried deposits and earthworks. On the south-west side of the moat a D-shaped raised area is thought to represent the site of an external gatehouse, while at the eastern and southern corners leats survive, which guided the flow of water into and away from the moat. Excavations at the site have revealed the moat originated between c.AD1250 and 1350. Its significance is also informed by the physical evidence within the surrounding area of its interface between higher ground, the marshes, and estuary beyond. The feature is currently covered in dense scrub undergrowth and is thus not visually obvious or prominent in the area.

- 8.5.5. Paragraph 6.3.7 of the Local Plan is specifically concerned with the application site and identifies an opportunity to promote heritage, benefits through enhancements to adjacent land which is under the same ownership as the application site (within the blue line). However, it should be noted that the applicant does not control any land beyond that identified within this application.
- 8.5.6. The applicant has engaged in discussions with Historic England to address concerns regarding the impacts of the proposal on the setting of the Castle Rough SAM. These discussions were informed by section plans which provided a detailed understanding of the relationship of the proposal with the SAM. The applicant has agreed to plant additional mature native trees to provide screening to the SAM with species selected that are tall when mature to ensure significant and long-term screening. Furthermore, public access via a footpath will be provided to a point overlooking Castle Rough where an interpretation board will be installed. Increased ground levels adjacent to the SAM to further enhance the screening of the development were discounted on drainage and flooding grounds.
- 8.5.7. As noted above, the landscape screening, footpath, heritage interpretation board and maintenance will be secured through a Section 106 agreement as they will be located outside of the application site on land within the applicant's control.
- 8.5.8. Historic England advise that the applicant has provided information to demonstrate that there will be some (less than substantial) harm from the development, but the measures proposed are sensible and have responded to Historic England's concerns. Harm stems from intervisibility with the monument and upper part of the proposal site; the planting of mature trees is a response to lessen (but not completely remove) this impact. The plantation buffer to the south of the proposal reduces the open context of the monument (which makes it more difficult to understand its landscape context) but provides screening for the lower part of the proposed development to reduce visual harm.
- 8.5.9. Historic England advise that the proposed public access and interpretation board is a heritage benefit to add to the overall public benefit and is welcomed. In accordance with paragraph 202 of the NPPF the public benefits of the proposal will need to be balanced against the residual less than substantial harm identified to the SAM.
- 8.5.10. The proposed development can be considered to be an economically viable use of the site which is demonstrated by the developer's intention to bring forward the proposal. The submitted information provided by the applicant suggests that the business development that has planning permission did not represent an economically viable use, whereas the height, scale and massing of the proposed battery storage installation, its relationship with the topography and the contours of the land, along with the proposed mitigation measures respond well to the constraints presented by the SAM. The proposed development including the landscape mitigation is considered to minimise the harm to the SAM. Having regard to potential alternative uses of the site it is reasonable to conclude that the proposal can be considered an optimum viable use of the site.

- 8.5.11. The proposed development would result in some ‘less than substantial harm’ to the setting of the Castle Rough scheduled monument. Clear and convincing justification is required by NPPF paragraph 200 for any harm to the significance of a designated heritage asset. The second step is therefore to balance that harm against the public benefits of the scheme, applying the requirements of NPPF paragraph 202 in the case of less than substantial harm.
- 8.5.12. A public benefit can be anything that delivers economic, social or environmental objectives, which are the three overarching objectives of the planning system as set out in the NPPF. Benefits are discussed below:
- 8.5.13. The development would bring forward jobs and spending during the construction stage and a small number of jobs at operational stage and this benefit is afforded **significant weight**.
- 8.5.14. The proposal would deliver an essential facility to meet decarbonisation and net zero targets in the context of a Climate and Ecological Emergency as declared by the Council, as well as contributing to energy security. This benefit is afforded **substantial weight**.
- 8.5.15. The proposal would deliver a heritage benefit in the form of a footpath to provide views of the SAM along with an interpretation board to provide information to the public. This benefit is afforded **significant weight**.
- 8.5.16. Ecological enhancements would be secured through the proposed landscaping scheme and **moderate weight** is afforded to this benefit.
- 8.5.17. In light of the benefits identified and given that the proposal would result in some ‘less than substantial harm’ to the setting of the Castle Rough scheduled monument, the benefits of the scheme are considered to outweigh the harm in accordance with Local Plan Policy DM 36 and the NPPF.
- 8.6. **Archaeology**
- 8.6.1. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 8.6.2. Para 6.3.7 of the Local Plan is specifically concerned with the application site and states that, given the proximity of the allocation to the monument, there is also potential for associated archaeological deposits to be revealed and therefore archaeological investigation to precede development should take place in accordance with relevant guidance and Policy DM 34 of the Local Plan.
- 8.6.3. The site is located within an Area of Potential Archaeological Significance. The application is accompanied by a Desk Based Assessment which identifies a high potential for Prehistoric, Roman and Medieval remains on the site. The Assessment notes that previous archaeological investigations have been undertaken within and around the site and archaeological remains were encountered.
- 8.6.4. The KCC Archaeology Officer notes evidence of Bronze Age, Iron Age and early Roman period activity on the site. Archaeological features on the site are likely to

be present at a shallow depth below ground level and therefore virtually all groundworks relating to any future development will have a potentially detrimental impact on the surviving archaeological resource. Accordingly, there is a need for archaeological mitigation which can be addressed through a planning condition securing further archaeological evaluation and mitigation (No. 15).

- 8.6.5. In view of the condition securing a programme of archaeological investigation and mitigation the proposed development is considered acceptable in relation to archaeology and in accordance with Local Plan Policy DM 34.

8.7. **Character and appearance**

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

- 8.7.2. Permanent infrastructure including the substation compound and BESS units are located within the application site whilst landscaping and ecological enhancement is proposed to the south of the site. The landscaping will help to maintain and strengthen the buffer between built development and the open land to the south towards Milton Creek. The BESS units are similar in appearance and scale to shipping containers and this has allowed the arrangement of the units to respond to the topography of the site whereas the erection of larger buildings would require more extensive regrading of the land. Their relatively low height enables an overall satisfactory degree of visual mitigation from landscape screening to the south of the site. It is noted that the character of the area around the application site is defined by heavy industry and, whilst the proposed BESS units are functional in their appearance, they are not considered to be unduly visually obtrusive. The Council's Urban Design Officer raises no objections to the proposal in design terms and suggests that an appropriately coloured paint finish to the BESS units could further mitigate the visual impacts of the development. It is recommended that details of the paint finish are secured by condition (No. 21).

- 8.7.3. Having regard to the location and context of the site it is considered that the proposed development would not result in a harmful impact in terms of character and appearance and is therefore in accordance with the Local Plan and the NPPF.

8.8. **Trees**

- 8.8.1. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through Policy DM 29 of the Local Plan.

- 8.8.2. There are no trees on the application site and the proposals will not result in any impacts upon existing trees adjacent to the application site.

- 8.8.3. The proposal will involve the planting of a significant number of trees as part of the proposed landscaping scheme.

8.9. Ecology and Biodiversity

- 8.9.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP 7 and DM 28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 8.9.2. Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions for the purpose of conserving biodiversity. Furthermore, the National Planning Policy Framework states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible'. The National Planning Policy Framework states that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.'
- 8.9.3. National planning policy aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".
- 8.9.4. In terms of the Local Plan Policy DM 28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 8.9.5. The application is accompanied by an Ecology Appraisal Report and a Habitat Regulations Report. A further note and a revised site plan were also submitted which responded to initial comments from the KCC Ecological Advice Service.
- 8.9.6. In terms of protected species, great crested newts are considered likely to be present on the site. The applicant has joined a District Level Licencing Scheme which funds great crested newt conservation and has submitted a certificate counter signed by Natural England confirming admission into the scheme. Habitats suitable for great crested newts will be retained and enhanced through the proposals.
- 8.9.7. Low numbers of reptiles are likely to be present on the site. Clearance of potentially suitable habitats will be involve a Precautionary Method of Works (PMoW) supervised by a suitable qualified ecologist. Habitats suitable for reptiles will be retained and enhanced through the proposals.
- 8.9.8. The Protection of Badgers Act 1992 defines a badger sett as "any structure or place which displays signs indicating current use by a badger". A survey for badgers on site did not identify any badger setts on site or within 30m of the site. A pre-commencement badger survey will be undertaken across the site and of habitats

within 30m of the site boundary prior to commencement of development to minimise the risk of impacts to badgers and their setts.

- 8.9.9. There is no habitat suitable for bats on or within 10m of the site. Habitats suitable for bat foraging will be retained and enhanced through the proposals. Works will not be conducted at night or if they are necessary any lighting measures will be designed not to spill onto adjacent suitable bat foraging or commuting habitat (Condition 22).
- 8.9.10. Site clearance will be undertaken at a time of year when nesting birds are likely to be absent from the site. Habitats used by breeding birds will be retained and enhanced through the proposals.
- 8.9.11. The submitted information has been reviewed by the KCC Ecological Advice Service. who are satisfied that sufficient information has been provided. It is noted that the creation of meadows, wet meadows and scrub, the planting of trees and hedgerows and the installation of bird boxes on site is likely to greatly enhance the site's value to biodiversity. The enhancement of the proposed buffer zone is also supported. Conditions are recommended to secure the PMoW and a mitigation strategy in relation to reptiles as well as a badger survey prior to commencement of works and every 3 months during works (Nos. 17 and 18).
- 8.9.12. The application was submitted before Biodiversity Net Gain (BNG) became a mandatory requirement. However, the proposed scheme should deliver a significant biodiversity enhancement as noted above and it is recommended that a landscaping scheme is secured by condition (on-site) (No. 19) and through a Section 106 agreement (off-site) which demonstrates appropriate biodiversity and ecological enhancements.
- 8.9.13. Natural England raise no objections to the proposal and note that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- 8.9.14. Subject to the recommended conditions the proposal would accord with Policy DM 28 of the Local Plan in relation to ecology.

Special Protection Area

- 8.9.15. The Swale Special Protection Area and Wetland(s) of International Importance under the Ramsar Convention (Ramsar Site) lies 409m from the application site.
- 8.9.16. The Habitat Regulation was changed in 2019 to reflect the fact that the U.K. has left the EU. However, the obligations of a competent authority in the 2017 Regulations for the protection of sites or species did not change.
- 8.9.17. As a Competent Authority, the Borough has a statutory duty to:
- Help protect, conserve and restore the designated features of the site to meet their conservation objectives;
 - Prevent the deterioration of the site's habitats from human activity or natural changes, including habitats that support designated species;

- Prevent significant disturbance of the site’s designated species from human activity or natural changes.
- 8.9.18. The duty applies when taking a decision (including a planning decision) that might affect the integrity of a protected site.
- 8.9.19. The Habitat Regulation states that a competent authority, before deciding to give any consent for a project must make an appropriate assessment (also known as a Habitat Regulation Assessment (HRA)) of the implications of the project in view of the conservation objectives for protected sites, if:
- The proposal is likely to have a significant effect on a protected site (either alone or in combination with other plans or projects), and
 - Is not directly connected with or necessary to the management of that site.
- 8.9.20. The Council may agree to the application only after having ascertained that it will not adversely affect the integrity of the protected sites.
- 8.9.21. A shadow Habitat Regulations Assessment (HRA) has been prepared. The HRA for this project took impacts on functionally linked land and visual and noise disturbance through to the Appropriate Assessment (AA) stage. This assessment mirrors the legal process that the Council must follow under Regulation 63 of the Habitats Regulations in completing an HRA. The assessment submitted with this application follows the relevant case law associated with the Habitats Regulation. The assessment concludes that the proposed development will not result in an adverse effect on the integrity of the international sites.
- 8.9.22. A review of the HRA and appropriate assessment was undertaken, and officers are satisfied with the conclusion that the proposal would not result in an adverse impact on the designated sites. Natural England advise that the proposed development will not have likely significant effects on statutorily protected sites whilst the KCC Ecological Service raise no objections to the proposals. The HRA and AA and their conclusion (i.e., that there would be no harm to the integrity of protected sites) has been adopted by the Council as the competent authority.
- 8.9.23. In conclusion, an AA has been carried out. This accords with the Habitat Regulations and subject to the proposed mitigation measures being secured and delivered, there would not be any no adverse impact on the integrity of designated sites and the proposal would accord with Policies CP 7 and DM 28 of the Local Plan.
- 8.10. Transport and Highways**
- 8.10.1. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:
- “Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”*
- 8.10.2. The NPPF also states that:

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

- 8.10.3. Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.
- 8.10.4. There are two access points proposed. The primary access is via the existing bellmouth junction on the B2005 Swale Way to the south of the site. A secondary access which is intended to be used during construction and thereafter for emergency access only is proposed to the north of the site from Ridham Avenue. As noted above within the site there is a 6m wide perimeter road routed round the outside as well as a 4m wide internal access roads between the banks of BESS units and to the substation compound. Secure access gates will be erected at both the primary and emergency access points. Car parking is provided for up to 17 vehicles.
- 8.10.5. The application is accompanied by a Transport Statement which identifies the impacts on the local highways network at the construction and operational stages. There is anticipated to be 300 daily trips at construction stage (150 in and 150 out) and there will be negligible highways impacts at operational stage.
- 8.10.6. KCC Highways raise no objections to the proposal subject to conditions (Nos. 5-7) securing the following:
- Construction Management Plan
 - Use of a bound surface for the first 5 metres of the access from the edge of the highway
 - Measures to prevent the discharge of surface water onto the highway
 - Completion and maintenance of the access prior to first use of the development
 - Gates to open away from the highway and be set back a minimum of 5 metres from the edge of the carriageway.
- 8.10.7. It is considered that the proposed development is acceptable in terms of highways and in accordance with the Local Plan and the NPPF.

8.11. **Air Quality**

- 8.11.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.
- 8.11.2. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.

8.11.3. The Planning Practice Guidance on Air Quality states that

“whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”.

8.11.4. The Local Plan at Policy DM 6 sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.

8.11.5. The implications of the proposal in terms of air quality primarily relate to the construction stage of the development. The Council’s Environmental Health Officer advises that construction dust can be controlled through best practice methods which can be secured by condition (No. 8) through a Code of Construction Practice (CoCP).

8.11.6. In view of the above the proposed development is considered acceptable in air quality terms and in accordance with the Local Plan and the NPPF.

8.12. **Flood Risk, Drainage and Surface Water**

8.12.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in Policy DM 21 of the Local Plan.

8.12.2. The application is accompanied by an Outline Drainage Strategy which sets out the underlying principles with which the detailed site drainage design will be developed following further site investigation and design. Sustainable Urban Drainage Systems (SUDS) are proposed to be utilised.

8.12.3. The development will incorporate drainage measures including filter drains, filtrations areas, filter strips or swales to collect, manage and treat runoff prior to discharge. However, the area on which the BESS units are located would be impermeable due to firewater safety provisions. The substation compound will have its own dedicated oily water drainage and treatment system, which will discharge to the wider surface water system. Within the landscaped area to the south of the site it is proposed to discharge to a nearby watercourse (which feeds into Milton Creek) via an attenuation basin.

8.12.4. The Environment Agency (EA) note that the proposed development involves measures to raise the installations above ground level which will add resilience to the development and allow for the impacts of climate change.

8.12.5. KCC Drainage as Lead Local Flood Authority (LLFA) raise no objections to the proposal subject to conditions (Nos. 12-14) securing a detailed surface water management scheme, verification following its installation, and details of future maintenance.

8.12.6. The Lower Medway Internal Drainage Board welcome the proposal for utilising SuDS features for surface water storage and to assist with pollution control. The site (including the 'blue line' land to the south) is adequately sized to accommodate attenuation to enable development of the site and the Board welcome the proposal to control the discharge rate and to raise the battery platform in the area adjacent to the tidal flood extent. Conditions (Nos. 12-14) and informatives are requested to address the implications of the proposal for the Board's assets.

8.12.7. Southern Water raise no objections to the proposed development.

8.12.8. The proposals are considered acceptable in relation to flood risk, drainage and surface water and are in accordance with Policy DM 21 of the Local Plan and the NPPF.

8.13. **Contamination**

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

8.13.2. The Council's Environmental Health Officer notes that the site is not in a known area of land contamination, though it is close to known and potential sites to both the north and east. Whilst the end use of the development is not residential, there is potential for personnel to be exposed to contaminants during construction works. It is recommended that a Phase 1 contamination investigation is secured by condition (No. 3).

8.13.3. In view of the above it is considered that the proposed development is acceptable in terms of contamination and is in accordance with the NPPF.

8.14. **Fire Safety**

8.14.1. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.

8.14.2. The application is accompanied by a Fire Management Plan (FMP) which notes that the layout of the proposed development has been informed by fire safety considerations with a minimum 3m separation between adjacent BESS units. Three 120,000 litre static water tanks are proposed which connect to a network of fire hydrants around the site. Fire protection and detection systems will be provided throughout the site.

8.14.3. Kent Fire Rescue Service (KFRS) advise that the application is accompanied with sufficient information to align with the Grid Scale Battery Energy Storage System (BESS) planning guidance provided by the National Fire Chiefs Council (NFCC). This guidance recognises that a full specification is not required at this stage and is cognisant that rapidly changing technology, deeper understating of risk and mitigation measures associated with BESS sites will affect the emergency response plan of the Fire and Rescue Service. The emergency response plan is not fully developed but provides sufficient outline information to demonstrate that a safe and effective emergency response can be provided. A condition is requested to secure

further details of the battery composition and design, fire suppression systems, fire water runoff design and a full emergency response and risk management plan (No. 16).

8.14.4. In view of the above the proposed development is considered acceptable in terms of fire safety.

8.15. **Noise**

8.15.1. The NPPF states that planning decisions should ensure that noise from new development is mitigated and potential adverse impacts are reduced to a minimum.

8.15.2. The application is accompanied by an Acoustic Impact Assessment (AIA) which advises that nearby noise sensitive receptors (NSRs) have been identified and a baseline sound survey has been undertaken to identify ambient sound levels at these locations. A qualitative assessment of construction noise and vibration emissions has been undertaken and best practice noise and vibration control measures have been provided. The equipment specification for the proposal therefore the predicted sound levels at NSRs have been based on an assumed likely worst-case scenario. The operational sound has been assessed and the effects are anticipated not to be significant.

8.15.3. The Council's Environmental Health Officer has reviewed the Noise Impact Assessment (NIA) and advises that, whilst they would normally recommend that any noise from plant be 5dB below the measured background, in view of the context of the site 1dB below would be acceptable in this case. The plant to be used on site has yet to be decided and it is therefore recommended that the NIA be revised to include assessment of the plant (and the effects of acoustic enclosures/barriers) when this becomes known. It is recommended that the recommended noise measures are secured by condition (Nos. 9 and 10).

8.15.4. In view of the scale of the development, the Council's Environmental Health Officer recommends that a Code of Construction Practice (CoCP) be secured to demonstrate how the construction phase is to be managed (condition 7). The CoCP would secure dust controls (as mentioned above) as well as controls for noise, including measures set out in the AIA.

8.15.5. In view of the above the proposed development is considered acceptable in terms of noise and in accordance with the provisions of the NPPF.

8.16. **Living Conditions**

8.16.1. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.

8.16.2. In view of the degree of separation to the nearest residential properties and having regard to the noise controls which will be secured it is considered that the proposal will not result in adverse impacts upon the nearest residential properties. The proposal is therefore considered to be in accordance with the Local Plan and the NPPF.

8.17. **Other matters**

- 8.17.1. A local objection has been received regarding devaluation of house prices and difficulties selling nearby houses. Impacts on house prices are not a material planning consideration relevant to the determination of this planning application.
- 8.17.2. A local objection has been received suggesting that local homeowners should be compensated for the impacts of the proposed development. The planning system does not provide for compensation to be provided to parties impacted by developments.
- 8.17.3. The applicant has provided a response to concerns raised by a neighbouring resident in relation to electromagnetic radiation from the proposed development. It is noted that the site is located approximately 80m from the nearest residential property boundary and the site will be secured and will only be accessed by authorised personnel. Battery storage utilises a chemical process to store and release the energy and as such no electromagnetic fields are produced by the batteries themselves. The main electrical equipment operating within the facility will be operating at 33kilovolts (kV) with a 400kV underground cable connecting the facility to the National Grid substation approximately 1km north/north-east of the site. Typically, equipment contained within a substation is designed so that it doesn't produce any significant electrical fields and the equipment will comply with all requisite safety standards to enable personnel to work on or near the equipment during operation. Substations do produce magnetic fields when the equipment is operating and these are typically 1 or 2 microteslas (μT) at the boundary of a substation, decreasing rapidly the further away from the source – at approximately 1-2 meters from the substation the magnetic field is usually lower than the magnetic field found in a home. The note concludes that the combination of distance and periodic operation of the battery storage facility, electromagnetic fields should not represent a cause for concern for the local residents.

8.18. **Conclusion**

- 8.18.1. The starting point for determining the application is the Development Plan, Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 are clear that planning applications must be determined in accordance with the Statutory Development Plan unless material considerations indicate otherwise.
- 8.18.2. The application site is allocated for business use and the proposed development would not bring forward the business use and accompanying employment and economic benefits sought through Local Plan Policies CP 1 and A 2. However, development of the site for business use has not come forward despite a grant of outline planning permission and the applicant cites challenges associated with the constraints of the site and related abnormal costs. The proposal is an essential facility to meet decarbonisation and net zero targets in the context of a Climate and Ecological Emergency as declared by the Council. Planning policy and legislation has not 'caught up' to accommodate the requirements for such facilities and it is therefore likely that they will need to be delivered on sites allocated for other uses

or within open countryside. As set out in the principle section of this report, the application is considered to be acceptable in land use terms.

- 8.18.3. For the reasons set out in the report the impact on the Castle Rough SAM is considered to be acceptable in heritage terms.
- 8.18.4. The proposal is identified as resulting in a minor degree of landscape harm, as identified within the landscape section of this report and as would be anticipated from any development of the site.
- 8.18.5. The proposed development would not result in harm to living conditions and nor is it harmful in relation to the technical matters considered within this report.
- 8.18.6. Having regard to the above the proposal is considered, on balance, to be acceptable. It is recommended that planning permission be granted subject to conditions and the satisfactory completion of a legal agreement.

RECOMMEDATION – GRANT PLANNING PERMISSION subject to conditions and the prior completion of a Section 106 agreement

1. Commencement of development

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

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

2. Approved Plans

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

Application Boundary Figure 1

Layout Plan Figure 2

Site Layout Plan KEM-ACM-DR-CE-1001 Rev. G

Landscape Masterplan 60712158-ACM-ELS-S1-Z_Z_Z_DR-LA-0001 Rev. P04

Construction Compound Plan KEM-ACM-DR-CE-1012 Rev. B

Site Cross Section – Section A KEM-ACM-DR-CE-1002a Rev. A

Site Cut Fill Plan KEM-ACM-DR-CE-1005 Rev. B

Battery and PCS Units Indicative Elevations KEM-ACM-DR-CE-1003 Rev. A

Drainage Strategy KEM-ACM-DR-CE-1019 Rev. B

Main Switch Room Indicative Elevations and Floor Plan KEM-ACM-DR-CE-1003b Rev. B

Vehicle Swept Paths Crane and SQT Specialist Vehicle KEM-ACM-DR-CE-1010 Rev. B

Vehicle Swept Paths Fire Engine KEM-ACM-DR-CE-1009 Rev. B

Typical Road Detail KEM-ACM-DR-CE-1004 Rev. A

Access Road Junction Detail KEM-ACM-DR-CE-1004B Rev. B

Access Road Junction Detail KEM-ACM-DR-CE-1004C Rev. B

Internal Road Layout Plan and Profiles Sheet 1 of 3 KEM-ACM-DR-CE-1006 Rev.

B

Internal Road Layout Plan and Profiles Sheet 2 of 3 KEM-ACM-DR-CE-1007 Rev. A
Internal Road Layout Plan and Profiles Sheet 3 of 3 KEM-ACM-DR-CE-1008 Rev. A
Site Drainage Plan KEM-ACM-DR-CE-1011 Rev. E

Planning, Design and Access Statement prepared by Aecom (December 2023)

Landscape and Visual Appraisal prepared by Aecom (December 2023)

Desk Based Heritage Assessment prepared by Aecom (December 2023)

Habitat Regulations Assessment Report prepared by Aecom (December 2023)

Ecological Appraisal Report prepared by Aecom (December 2023)

Transport Statement prepared by Aecom (December 2023)

Flood Risk Assessment prepared by Aecom (December 2023)

Acoustic Impact Assessment prepared by Aecom (18 December 2023)

Fire Management Plan prepared by Aecom (24 November 2023)

Surface Water Management Plan prepared by Aecom (25 March 2024).

Reason: In order to define the permission and in the interests of proper planning.

3. Ground contamination investigation and remediation

Prior to the commencement of development the following components of a scheme to deal with the risks associated with contamination of the site shall be 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.

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

Reason: Required prior to commencement of development to ensure that any ground contamination on the site is identified and remediated and in the interests of the wellbeing of construction workers and future operatives.

4. Ground Contamination Remediation Closure Report

Prior to the first use of the development a closure report further to any ground contamination remediation works as required under condition 3 part 3 shall be submitted to and approved in writing by the local planning authority. The closure report

shall include full verification details and shall 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. The scheme shall thereafter be implemented as approved.

Reason: In order to ensure that any required contamination remediation works are carried out satisfactorily in the interests of the wellbeing of future operatives.

5. Construction Management Plan

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

- a) Routing of construction and delivery vehicles to / from site.
- b) Parking and turning areas for construction and delivery vehicles and site personnel.
- c) Timing of deliveries.
- d) Provision of wheel washing facilities.
- e) Temporary traffic management / signage to include a request for a TTRO to prohibit right turn movements into the construction access on Swale Way.

The development shall be undertaken in accordance with the approved Construction Management Plan.

Reason: In the interests of highway safety and the free flow of traffic on the highway. The Construction Management Plan is required prior to the commencement of development in order to ensure that the construction of the development does not result in

6. Site Access

Prior to the first use of the development the access shown on plan ref. KEM-ACM-DR-CE-1004B shall be completed and shall incorporate a bound surface for the first five metres of the access from the edge of the highway and shall be permanently maintained thereafter.

Reason: In the interests of highway safety and providing adequate vehicular access to the development.

7. Details of boundary treatment and access gates

Prior to the commencement of development details of the boundary treatment to the site including details of the access gates shall be submitted to and approved in writing by the Local Planning Authority. The access gates shall open away from the highway and shall be set back a minimum of 5 metres from the edge of the carriageway. The development shall be implemented and maintained in accordance with the approved details thereafter.

Reason: In the interests of the visual amenities of the area and highway safety and providing adequate vehicular access to the development. These details are required

prior to the commencement of development in order to ensure that the development will be delivered with satisfactory boundary enclosures and access gates in place.

8. Code of Construction Practice

Prior to the commencement of the development a Code of Construction Practice 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:

- An indicative programme for carrying out the works;
- Measures to minimise the production of dust on the site;
- 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;
- Design and provision of site hoardings;
- Management of traffic visiting the site 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;
- 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;
- The location of temporary vehicle access points to the sites during the construction works;
- The arrangements for public consultation and liaison during the construction works.

Reason: In the interests of residential amenity and to ensure that the construction of the development does not result in undue pollution or nuisance. These details are required prior to commencement in order to ensure that satisfactory measures are in place prior to any construction activity.

9. Construction Surface Water Management Plan

Prior to the commencement of development, a Construction Surface Water Management Plan (CSWMP) shall be submitted to and approved by the Local Planning Authority. The CSWMP shall detail how surface water and storm water will be managed on the site during construction is submitted to and agreed by the local planning authority. The plan should outline the phases of construction showing where and when drainage features will be installed and how runoff will be managed, to

minimise flood risk and water quality impacts on site and to the surrounding areas The development shall be implemented in accordance with the .

Reason: In the interest of managing flood risk during the construction stage. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

10. Industrial/commercial noise rating

The rating level of noise emitted from the proposed plant and equipment to be installed on the site (determined using the guidance of the current version of BS 4142 for rating and assessing industrial and commercial sound shall be 5dB below the existing measured background noise level LA90, T, or other level as shall be agreed in writing by the Local Planning Authority. In exceptional circumstances, such as areas with a very low background or where assessment penalties total above 5dB the applicant's consultant should contact the Environmental Protection Team to agree a site specific target level.

Reason: In the interests of residential amenity.

11. Low frequency noise

Prior to the first use of the electricity substation an acoustic report shall be submitted to and approved in writing by the Local Planning Authority. The report shall address the issue of noise (including low frequency noise) and vibration from the station to ensure that there is no loss of amenity to residential or commercial properties. For residential accommodation, the scheme shall ensure that the low frequency noise emitted from the substation is controlled so that it does not exceed the Low Frequency Criterion Curve for the 10 to 160Hz third octave bands inside residential accommodation as described in The DEFRA Procedure for the assessment of low frequency noise complaints 2011 (NANR45). The assessment can be a measurement or a calculation to demonstrate internal levels. The equipment shall be maintained in a condition so that it complies with the levels and mitigation measures specified in the approved acoustic report, whenever it is operating. After installation of the approved plant, any new or replacement primary plant that generates noise or vibration shall be installed in compliance with this requirement and maintain the approved low frequency levels, and an updated report submitted to the local planning authority demonstrating compliance within 3 months of completion of any plant replacement operations.

Reason: In the interests of residential amenity.

12. Drainage Scheme

Prior to the commencement of development, a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Surface Water Management Plan prepared by AECOM Limited dated 14.03.24 and the Drainage Strategy (Sheet number: KEM-ACM-DR-CE-1019) and shall demonstrate that the surface water generated by this development (for all rainfall durations and

intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance) that appropriate operational requirements for each drainage feature or SUDS component are adequately considered and that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

The drainage scheme shall incorporate measures to ensure that there is no discharge of surface water onto the highway.

The drainage scheme shall be implemented in accordance with an agreed timetable and in accordance with the approved details.

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

13. Drainage Scheme Verification

Prior to the first use of the development a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 175 of the National Planning Policy Framework.

14. Drainage Scheme Maintenance

Prior to the first use of the development a maintenance schedule shall be submitted to and approved by the Local Planning Authority. The schedule shall specify ownership and any proposed arrangements for future adoption by a public body or statutory undertaker. The schedule shall specify a timetable for implementation, and it shall provide a management and maintenance plan for the lifetime of the development. All drainage features and SUDS components should be located in accessible areas, and the plan should include addressing the frequency of maintenance for each drainage feature of SUDS component based on guidance in the CIRIA SUDS Manual 2015 as well as details of who will carry out the maintenance. Any land drainage consent issued

by the Lower Medway Internal Drainage Board will be suitably conditioned to include the proposed maintenance schedule.

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

15. Archaeological programme of works

In order to assess and mitigate the impacts of development on significant archaeological remains:

- A. Prior to any development works the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority.
- B. Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.
- C. The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.
- D. Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:
 - a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
 - b. an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;
 - c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.
- E. The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with policies in the local plan and the National Planning Policy Framework. These details are required prior to the commencement of development in

order to ensure that the works do not result in harm to features of archaeological interest.

16. Fire Safety

Prior to the commencement of development details of the following shall be submitted to and approved in writing by the Local Planning Authority:

- Battery composition/chemistry with appropriate evidence that it meets the design criteria within the approved Fire Management Plan and relevant industry standards and is suitable in terms of the site layout and mitigation measures.
- Fire suppression systems suitable for the battery composition and design which meet relevant industry standards and are suitable in terms of the site layout and mitigation measures.
- Site specific fire water runoff design.
- A full emergency response and risk management plan.

The development shall be implemented in accordance with the approved details and shall be permanently maintained as such thereafter.

Reason: In the interests of fire safety. These details are required prior to the commencement of development in order to secure appropriate fire safety measures at operational stage.

17. Precautionary Method of Works

The development hereby permitted shall be carried out in accordance with the Precautionary Method of Works detailed within the Ecological Appraisal and shall incorporate the associated mitigations for reptiles.

Reason: In the interests of protecting any Great Crested Newts and other reptiles present on the site.

18. Badger survey

No sooner than 3 months prior to the commencement of development a badger survey shall be carried out and shall be repeated every 3 months during construction in order to ensure the continued absence of badgers. If badgers are observed on site or evidence of an active badger sett is observed, works must stop immediately and the advice of a qualified ecologist should be sought. If badgers are observed on site then details of mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the mitigation works.

Reason: In the interests of protecting any badgers present on the site. These details are required prior to the commencement of development in order to ensure that the construction works do not result in harm to any badgers present on the site.

19. Landscaping

Prior to the commencement of development full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include tree and shrub planting, planting schedules of plants, noting

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

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity and to provide appropriate screening to the Castle Rough scheduled monument. These details are required prior to the commencement of development in order to ensure that the development will satisfactorily mitigate harmful impacts upon the local landscape and the setting of Castle Rough.

20. Details of lighting

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

Reason: In the interests of visual and residential amenity. These details are required prior to the commencement of development in order to ensure that the development as implemented does not result in harmful light spill.

21. Details of paint finish

Prior to the commencement of development details of the paint finish to the battery units shall be submitted to and approved in writing by the Local Planning Authority. The units shall be finished in accordance with the approved details prior to the first use and shall be permanently maintained thereafter.

Reason: These details are required prior to the commencement of development in order to ensure the satisfactory appearance of the battery units in the interests of the visual amenities of the area.

22. Construction Lighting

Any construction works conducted at night shall use lighting designed not to spill onto adjacent suitable bat foraging or commuting habitat.

Reason: In the interests of protecting bats foraging and commuting adjacent to the site.



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2.2 REFERENCE NO - 24/500984/FULL		
PROPOSAL Loft conversion into habitable space including 3no. front dormers and 2no. rear dormers and rooflight. Garage conversion into habitable space ancillary to the main dwelling.		
SITE LOCATION 64 Maylam Gardens Borden Sittingbourne Kent ME10 1GB		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions.		
APPLICATION TYPE Householder		
REASON FOR REFERRAL TO COMMITTEE Borden Parish Council Objection		
CASE OFFICER Mandi Pilcher		
WARD Borden and Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Mrs Rukiat Abudu AGENT Architectural Design & Builder
DECISION REGISTERED 07/03/2024	TARGET DATE 02/05/2024	
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted All representations received The full suite of documents submitted pursuant to the above application are available via the link below: - https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S9V7T1TYMQM00		

1. SITE LOCATION AND DESCRIPTION

- 1.1 64 Maylam Gardens is a two storey detached property within the built up area boundary of Sittingbourne.
- 1.2 There is a private amenity space to the rear with a separate garage (adjoined to the neighbours garage) to the side of the property. In front of the garage lies an area of hardstanding providing the parking for the property, which measures 5.2m x 12.2m.

2. PLANNING HISTORY

- 2.1 **SW/99/1045** – Planning permission granted on 14.03.2001 for the Erection of 101 dwellings with garaging, access and open space – This permission is the original permission for the host dwelling and the wider housing estate upon which it is located.

3. PROPOSED DEVELOPMENT

- 3.1 The application seeks planning permission for a loft conversion into habitable space including 3no. front dormers and 2no. rear dormers and a rooflight. The garage is also proposed to be converted into habitable space ancillary to the main dwelling.
- 3.2 The proposed loft conversion would see three small pitched roof dormers located upon the front roofslope and two small pitched roof dormers and a rooflight on the rear roofslope. This would create two bedrooms, shower/wc and a storage room.
- 3.3 The garage conversion will incorporate the removal of the two garage doors and the insertion of brickwork and two uPVC windows to the front elevation and a small window in the rear elevation, with a side door.
- 3.4 The external finishing materials will match the existing dwelling.
- 3.5 Drawing PLN 01/01 shows an area of hard standing to the front of the property to also be used for parking. The agent has confirmed that permeable materials will be used. As a result, this element of the proposal does not require planning permission so will not be assessed.

4. CONSULTATION

- 4.1 One round of consultation with neighbours has been undertaken, during which letters were sent to neighbouring occupiers. Letters from two separate addresses were received. One letter stated that it was neither supporting nor objecting to the application and the other letter objected to the application with the following summarised points being raised (full representations are available online):

Comment	Report reference
Drawings related to the ground floor of the dwelling and parking arrangements are missing from the application.	See paragraph 7.22
Noise concerns regarding the increase in number of occupants at the property.	See paragraph 7.14
The existing driveway can accommodate 4-6 cars and therefore the drawing showing part of the front garden to be used for parking would be out of character with the remainder of the estate.	See paragraph 7.19
The drawings do not show a large outbuilding being constructed in the rear garden.	See paragraph 7.22

- 4.2 **Borden Parish Council** were consulted on two occasions. In response to the first consultation they raised an objection on the following summarised grounds (full representations are available online):

Comment	Report reference
Proposal is inappropriate and out of character for the area.	See paragraphs 7.6 – 7.10
Not enough provision for parking.	See paragraphs 7.18 – 7.20
Box dormers will encroach on neighbouring properties.	See paragraph 7.13

- 4.3 The development was amended to show smaller windows on the front elevation of the garage and the agent also subsequently submitted a plan showing an additional parking space. Borden Parish Council were re-consulted and responded setting out that they continued to raise an objection for the reasons as set out above.

5. REPRESENTATIONS

- 5.1 None

6. DEVELOPMENT PLAN POLICIES

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

ST3 The Swale settlement strategy
CP4 Requiring good design
DM7 Vehicle Parking
DM14 General development criteria
DM16 Alterations and extensions

6.2 **Supplementary Planning Guidance/Documents**

Supplementary Planning Guidance - Designing an Extension – A Guide for Household

Supplementary Planning Document - Swale Parking Standards

7. ASSESSMENT

- 7.1 This application is reported to the Committee because Borden Parish Council object to the proposal. Considering these comments and the scheme that has been submitted, the committee is recommended to consider the following points:

- The Principle of Development
- Character and Appearance
- Living Conditions
- Highway safety and parking

Principle

- 7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 7.4 Policy ST 3 of the Local Plan 2017 supports the principle of development within the built up area boundary of established towns and villages within the Borough.
- 7.5 The site lies within the built confines of Sittingbourne therefore the principle of development is considered acceptable subject to the consideration of other material planning considerations as discussed below.

Character and appearance

- 7.6 The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 7.7 Policy CP4 of the Local Plan requires proposals to be of a high quality design that is appropriate to its surroundings in respect of materials, scale, height and massing. Policy DM16 sets out that alterations and extensions to existing properties will respond positively to style and character of the building being extended, will be appropriately scaled and maintain or enhance the character of the streetscene.
- 7.8 The immediately surrounding area is mainly comprised of detached properties of similar styles and designs. The three front dormer windows are appropriately scaled in relation to the roof and incorporate a pitched roof design, reflecting the design guidance as set out in the Council's SPG relating to domestic extensions. As such it is considered that these dormer windows would sit comfortably upon the dwelling and not give rise to any harm to the streetscene. In terms of the two proposed dormers on the rear elevation, the property retains its permitted development rights in respect of roof alterations and as such these could be constructed without the benefit of planning permission. Notwithstanding this, they are also appropriately designed and being located on the rear roofslope will have a very limited impact upon visual amenities. A condition is recommended to require the external finishing materials to match the existing dwelling. The rooflight is also small scale and being located on the rear elevation gives rise to no harmful impacts to visual amenities.
- 7.9 The garage conversion would not alter the footprint and the windows on the front elevation would match the design of the existing dwelling.

7.10 Taking the above into account in respect of the character and appearance of the proposal the scheme is considered to comply with policies CP4 and DM16 of the Local Plan.

Living conditions

7.11 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Specifically, policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight. Policy DM16 also requires that alterations or extensions to existing buildings protect residential amenity.

7.12 The garage conversion would not increase the footprint, and as a result there would be no additional harm caused in terms of being overbearing or giving rise to any overshadowing. There would be new windows which would replace the existing garage doors, however, these would look out towards the highway at ground floor level, in a manner no more harmful than existing windows on the property and therefore would not result in any unacceptable loss of privacy between properties.

7.13 The proposed three front dormers windows and the two rear dormers windows are of a small scale and therefore it is not considered they will give rise to any harmful levels of overshadowing or loss of light to neighbouring properties. The location of the dormers in the front elevation will not lead to any unacceptable levels of overlooking as they would face towards the frontage of properties on the opposite side of the highway, in a manner no more harmful than the existing windows on the front elevation. In terms of the two dormer windows and the rooflight on the rear elevation, these would face towards the side elevation of No.62 Maylam Gardens, with a slightly larger separation distance than the existing windows on the host property. In addition, there would be side on views of the rear garden of this property from one of the dormer windows (the view from the other would be largely blocked by the neighbouring dwelling itself at No.62). The distance between the dormer and the central part of the rear garden is approximately 18m. As this is a side on view it is not considered that this would give rise to an unacceptable loss of privacy, especially as there are already first floor windows afforded a not dissimilar view. In addition, weight is also given to the ability of the applicant to carry out these works on the rear roofslope without requiring planning permission.

7.14 It is noted that concern has been raised from a neighbouring occupier regarding increased levels of noise from the occupants of the proposed development. The existing property has 4 bedrooms, with the proposal creating an additional 3, totalling 7. However, it will remain in residential use and as such it is not considered that harmful levels of noise would be created.

7.15 Taking the above into account the proposal is not considered to have an unacceptable impact upon on the living conditions of surrounding dwellings and would therefore be in accordance with policies DM14 and DM16 of the Local Plan.

Highway safety and parking

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

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

- 7.17 The NPPF also states that:

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

- 7.18 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. SBC Vehicle Parking Standards Supplementary Planning Document (SPD) which is pursuant to Policy DM 7 of the Local Plan was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications.

- 7.19 In this case the development will increase the number of bedrooms at the property to seven. The adopted Parking Standards SPD sets out that for a 4+ bedroom property in a suburban location such as this, 3+ parking spaces should be provided. It is noted that the property currently has off road parking with a large driveway. The size of the existing driveway, assessed against the measurements in the Parking SPD is large enough to accommodate 4 car parking spaces and therefore the property has a sufficient amount of parking spaces within its curtilage to comply with the SPD. Although the agent has submitted a drawing showing an additional parking space to the front of the property (and only showing two cars parked on the existing driveway), this additional space is not considered necessary for the scheme to be acceptable as the amount of existing available parking has been underestimated on this drawing. However, regardless of this, if the applicant wished to use part of the front garden for parking, then as the agent has confirmed this would be constructed from permeable materials it would be permitted development.

- 7.20 It is noted that concern has been raised by the Parish Council regarding parking provisions and that the proposal would lead to the loss of the existing garage space. In terms of this, the space within the existing garage measures 5m in width and 5m in depth, which falls below the depth required for the minimum garage size of 3.6m x 7m as set out in the Council’s Parking SPD. However, regardless of this, as set out above there is sufficient room to accommodate the required number of vehicles on the existing hardstanding. As such the proposal is acceptable in this regard, and in accordance with the Council’s Parking SPD and policy DM7.

Ecology

- 7.21 From 2nd April 2024, minor developments are required to provide at least 10% Biodiversity Net Gain (BNG). There are exemptions to this, including applications made by householders as defined within article 2(1) of the Town and Country Planning

(Development Management Procedure) (England) Order 2015. This application amounts to householder development, and as such is exempt from the need to provide BNG.

Other Matters

- 7.22 Although the majority of the comments made by interested parties have been considered in the assessment above, of the matters that remain the following points are made. Firstly, it is considered that all relevant drawings have been provided to assess the application. Secondly, a building being constructed in the rear garden is a separate matter from the consideration of this scheme and details have been passed to the Planning Investigations team to explore further.

Conclusion

- 7.23 On the basis of the above, the scheme is considered to be in compliance with policies ST3, CP4, DM7, DM14 and DM16 of the Local Plan. It is recommended that planning permission is granted.

CONDITIONS

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

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

- (2) The development hereby permitted shall be carried out in accordance with drawings PLN 03-05 and PLN 05-05.

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

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

Reason: In the interests of visual amenity.

- (4) The accommodation provided in the 'proposed garage conversion plan' as shown on drawing PLN 03/05 shall not be occupied at any time other than for purposes ancillary and / or incidental to the residential use of the dwelling known as 64 Maylam Gardens.

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

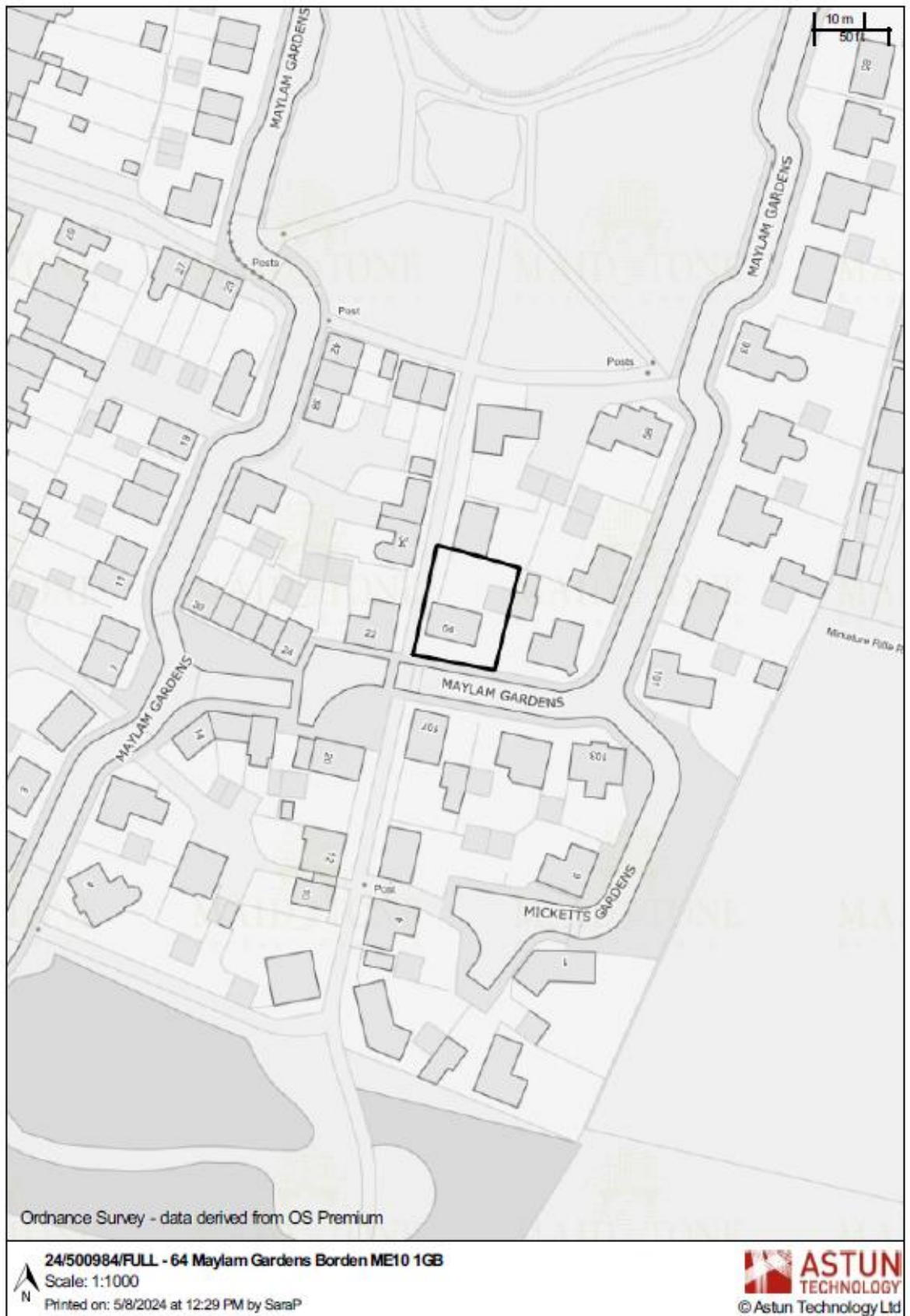
The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (2023), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a

pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

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



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