

# Agenda

## Planning Committee Meeting

Date: Thursday, 10 October 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

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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 meeting held on 12 September 2024 (Minute Nos. 234 - 242) 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**

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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 9 October 2024.

5. Deferred Item 1 - 24/500856/REM Land at Wises Lane

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6. Planning Working Group

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To approve the [Minutes](#) of the Meeting held on 4 September 2024 (Minute Nos. 193 - 194).

To consider application 24/500508/FULL, Camwa Ash, Bull Lane, Boughton Under Blean, Faversham, ME13 9AH.

7. 2.1 - 23/505558/FULL 87 High Street/1-5 Central Avenue, Sittingbourne

45 - 74

8. 2.2 - 22/502692/FULL Land North of Perry Leigh, Selling

75 - 86

9.	2.3 - 22/502086/OUT Land east of Scocles Road, Minster	87 - 158
10.	2.4 - 22/505076/OUT Land at Pheasants Farm, Iwade	159 - 212
11.	3.1 - 24/503608/PNQCLA 5 Acres Holywell Lane, Upchurch	213 - 228

**Issued on Wednesday, 2 October 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](mailto:democraticservices@swale.gov.uk). To find out more about the work of this meeting, please visit [www.swale.gov.uk](http://www.swale.gov.uk)

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

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## SWALE BOROUGH COUNCIL

### PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

**10th OCTOBER 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

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ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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## INDEX OF ITEMS FOR PLANNING COMMITTEE – 10 OCTOBER 2024

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

### DEFERRED ITEM

DEF ITEM 1 24/500856/REM BORDEN Land at Wises Lane

### WORKING PARTY ITEM

24/500508/FULL BOUGHTON UNDER BLEAN Camwa Ash Bull Lane

### PART 2

2.1 23/505558/FULL SITTINGBOURNE 87 High Street/1-5 Central Avenue

2.2 22/502692/FULL SELLING Land North of Perry Leigh

2.3 22/502086/OUT MINSTER Land east of Scocles Road

2.4 22/505076/OUT IWADE Land at Pheasants Farm

### PART 3

3.1 24/503608/PNQCLA UPCHURCH 5 Acres, Holywell Lane

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**PLANNING COMMITTEE – 10 OCTOBER 2024****DEFERRED ITEM**

Report of the Head of Planning

**DEFERRED ITEMS**

Reports shown in previous Minutes as being deferred from the 06 August 2024 Meeting.

<b>DEF ITEM 1 REFERENCE NO - 24/500856/REM</b>		
<b>PROPOSAL</b> Approval of reserved matters (Access, Appearance, Landscaping, Layout, and Scale sought) for levels and earthworks changes for Phase 2F and the Primary School Land pursuant to 17/505711/HYBRID.		
<b>SITE LOCATION</b> Land At Wises Lane Borden Kent ME10 1GD		
<b>RECOMMENDATION</b> 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.		
<b>APPLICATION TYPE</b> Major – Reserved Matters		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The number of representations received contrary to the recommendation; Called in at the request of Councillor Baldock; and Borden Parish Council object to the proposal.  The main concerns of the Parish Council are: <ul style="list-style-type: none"> <li>• The Impact upon the skylark mitigation land.</li> <li>• That the land be open natural space and not have pitches marked out.</li> </ul>		
<b>Case Officer</b> Carly Stoddart		
<b>WARD</b> Borden And Grove Park	<b>PARISH/TOWN COUNCIL</b> Borden	<b>APPLICANT</b> Karen Dunn  <b>AGENT</b> DHA Planning
<b>DATE REGISTERED</b> 19.03.2024	<b>TARGET DATE</b> 13.08.2024	
<b>BACKGROUND PAPERS AND INFORMATION:</b>  Cover Letter, dated 12 September 2024 (uploaded 19 September 2024) Drawing number 108 – Earthwork Sections (uploaded 12 September 2024) Drawing number 108-1 – Earthwork Sections (uploaded 12 September 2024) Drawing number 108-2 – Earthwork Sections (uploaded 12 September 2024)  The full suite of documents submitted pursuant to the above application are available via the link below: - <a href="#">24/500856/REM   Approval of reserved matters (Access, Appearance, Landscaping, Layout, and Scale sought) for levels and earthworks changes for Phase 2F and the Primary School Land pursuant to 17/505711/HYBRID.   Land At Wises Lane Borden Kent ME10 1GD (midkent.gov.uk)</a>		

**Other applications**

S106 Agreement (uploaded 20 December 2019)

Drawing number 2574-315D – Open Space Land Budget (uploaded 04 January 2019)

David William Landscape Consultancy Indicative Landscape Strategy Plan (Addendum LVIA Figure 10.8, Drawing No. L8 Revision E (uploaded 07 June 2018)

[17\\_505711\\_HYBRID--5237532.pdf \(midkent.gov.uk\)](#)

**1. INTRODUCTION**

- 1.1 This application was initially reported to Planning Committee on 06 August 2024, with a recommendation that permission be granted. The original Committee report is attached at Appendix A.
- 1.2 The Planning Committee resolved to defer the determination of the application. The draft minutes from the 06 August 2024 Committee meeting are attached at Appendix B of this report. In summary the application was deferred to allow officers to negotiate with the applicant to explore the possibility of re-levelling the land needed for the school site, rather than the open space area of the site.

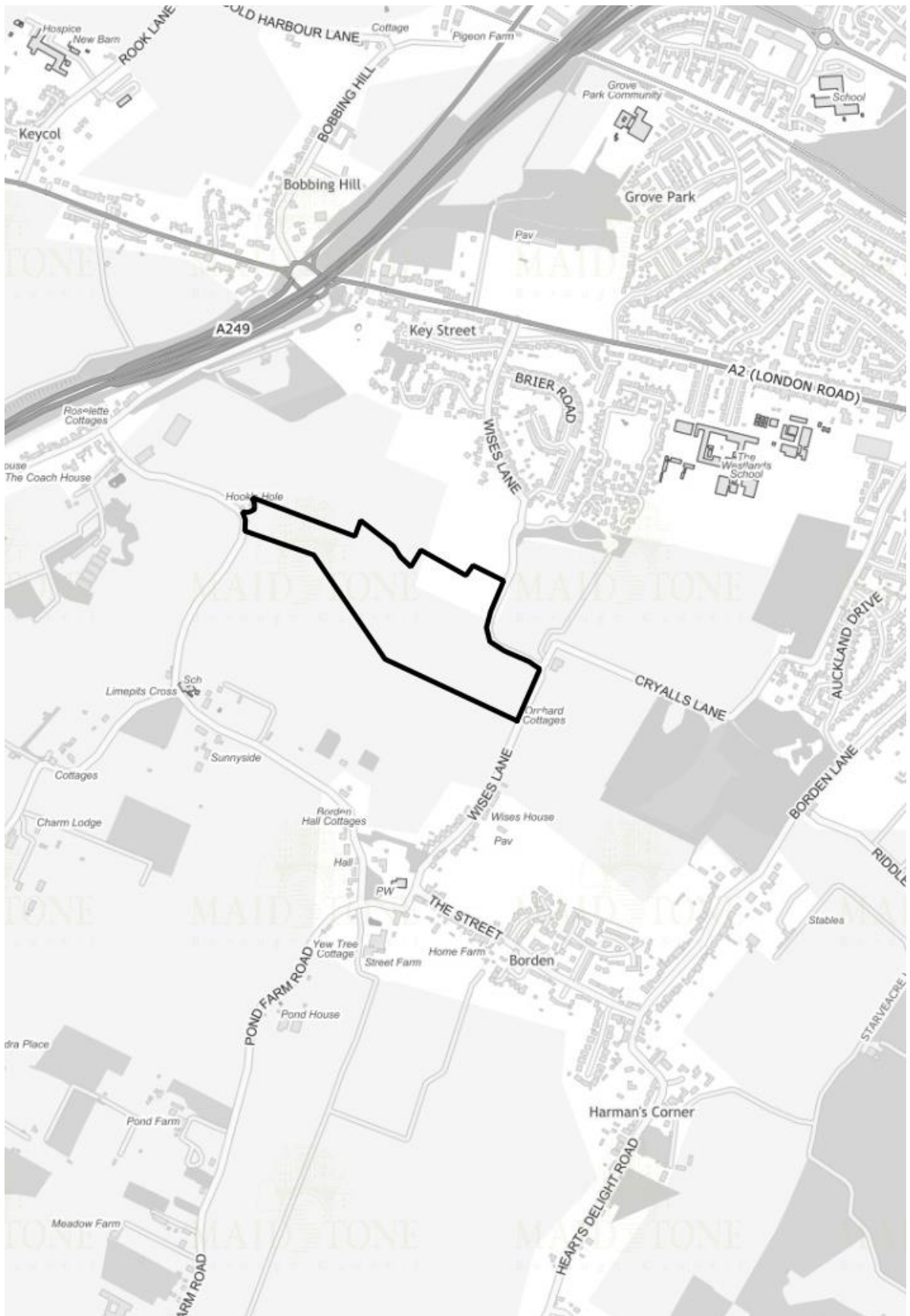
**2. RESPONSE TO REASONS FOR DEFERRAL**

- 2.1 The applicant was advised of the Planning Committee's comments regarding the possibility of leaving the open space part of the application site at its natural levels.
- 2.2 The applicant has declined to alter the proposal to leave the levels of the open space in their natural state. Instead, further information has been submitted including illustrative sections to assist in visualising the difference between existing and proposed levels. A cover letter has also been submitted which provides a written explanation as to why it is considered necessary to alter the levels within the open space area.
- 2.3 In addition to the submissions from the applicant, it should be noted that Schedule 4 of the s106 agreement to the hybrid planning permission requires delivery of open space in accordance with drawing 2574-315D and the David William Landscape Consultancy Indicative Landscape Strategy Plan (Addendum LVIA Figure 10.8, Drawing No. L8 Revision E). This drawing identifies part of the open space area within this reserved matters application to include sport provision. The definition of open space within the s106 agreement also states, 'for the avoidance of doubt [open space] shall include: an area for a sports pitche(s) as identified on the Open Space Plan Drawing 2574-315D to be provided in the form, number and standard to be agreed in writing with the Borough Council. The final detail is yet to be agreed with the Council and would come forward as a separate reserved matters application at a later date. The s106 agreement, however, requires part of the open space within the site to be flat enough allowing for sports provision.
- 2.4 The submitted cover letter explains how there are significant level changes within the open space part of the site with land sloping steadily towards the south and a dip in levels within the centre of the open space. As such to achieve the gradients to allow for informal recreational use which can be accessible for all, the levels need to be reprofiled.
- 2.5 The illustrative sections show how the proposed earthworks will not result in a flat surface across the entire site. Variations will still occur to maintain a more natural feel and interest.

- 2.6 The earthworks would be carried out prior the submission of separate reserved matters applications for the open space and for the school site. This will ensure the development platform is ready for the school site and the remainder of this application site ready for the delivery of open space in accordance with the hybrid planning permission.

### **3. CONCLUSION**

- 3.1 The additional information further demonstrates the proposed levels will not result in an entirely flat site and will retain some of the natural character in parts of the site.
- 3.2 Further explanation in terms of the requirements of the s106 agreement, which forms part of the hybrid planning permission, demonstrates the need for the proposed changes in levels.
- 3.3 It remains that the earthworks result in changes to levels would not have any impact beyond that of the hybrid planning permission. These impacts are controlled through the conditions placed on the overriding hybrid planning permission for the site. The proposal subject of this reserved matters application is in accordance with the terms of the hybrid planning permission and the policies of the Local Plan and the NPPF. This is set out in the main report presented to Planning Committee on 06 August 2024 (appended).
- 3.4 The proposal is recommended for approval with the conditions to be attached as set out in the main report and presented to Planning Committee on 06 August 2024 (appended).



**Appendix 1**

<b>2.2 REFERENCE NO - 24/500856/REM</b>		
<b>PROPOSAL</b> Approval of reserved matters (Access, Appearance, Landscaping, Layout, and Scale sought) for levels and earthworks changes for Phase 2F and the Primary School Land pursuant to 17/505711/HYBRID.		
<b>SITE LOCATION</b> Land At Wises Lane Borden Kent ME10 1GD		
<b>RECOMMENDATION</b> 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.		
<b>APPLICATION TYPE</b> Reserved Matters		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The number of representations received contrary to the recommendation; Called in at the request of Councillor Baldock; and Borden Parish Council object to the proposal.  The main concerns of the Parish Council are: <ul style="list-style-type: none"> <li>• The Impact upon the skylark mitigation land.</li> <li>• That the land be open natural space and not have pitches marked out.</li> </ul>		
<b>Case Officer</b> Joanna Russell		
<b>WARD</b> Borden And Grove Park	<b>PARISH/TOWN COUNCIL</b> Borden	<b>APPLICANT</b> Karen Dunn  <b>AGENT</b> DHA Planning
<b>DATE REGISTERED</b> 19.03.2024	<b>TARGET DATE</b> 13.08.2024	
<b>BACKGROUND PAPERS AND INFORMATION:</b>  Documents referenced in report are as follows: -  All drawings submitted. All representations received. <ul style="list-style-type: none"> <li>• Phase 2F enabling earthworks plan</li> <li>• Ecology technical note</li> <li>• Covering letter responding to KCC Highways comments</li> <li>• Arboricultural method statement</li> </ul> <u>Other applications</u> Appeal Decision for 17/505711/HYBRID, dated 29 April 2021 (uploaded 29 April 2021) <a href="#">17_505711_HYBRID--5237532.pdf (midkent.gov.uk)</a>  The full suite of documents submitted pursuant to the above application are available via the link below: - <a href="#">24/500856/REM   Approval of reserved matters (Access, Appearance, Landscaping, Layout, and Scale sought) for levels and earthworks changes for Phase 2F and the Primary School Land pursuant to 17/505711/HYBRID.   Land At Wises Lane Borden Kent ME10 1GD (midkent.gov.uk)</a>		

Report to Planning Committee 10<sup>th</sup> October 2024

Def Item 1

**Appendix 1**

Report to Planning Committee – 6 August 2024

ITEM 2.2

**Appendix 1**

Report to Planning Committee – 6 August 2024

ITEM 2.2

**1. SITE LOCATION AND DESCRIPTION**

- 1.1. The application site consists of a large area of land which extends from Chestnut Street to the west, to Wises Lane in the east. The site forms Phase 2F of the wider development which was granted planning permission following an Appeal against refusal of the hybrid proposal submitted under reference 17/505711/HYBRID as listed in the history section below.
- 1.2. The application site is currently formed of open agricultural land and is located adjacent to the Skylark Mitigation Land which was secured by legal agreement as part of the hybrid planning permission.
- 1.3. Borden-Chestnut Street Conservation Area is located to the south-west of the most north-westerly point of the application site. There are listed buildings located within the Borden-Chestnut Street Conservation Area. Two public rights of way (PRoWs) cross the application site ZR118 and ZR119.

**2. RELEVANT PLANNING HISTORY**

- 2.1. Following the grant of the hybrid planning permission, a number of reserved matters applications and applications to discharge conditions have been submitted. Only those relevant to this application are included in the list below.
- 2.2. **17/505711/HYBRID; PINS ref. APP/V2255/W/19/3233606:** Hybrid planning application with outline planning permission (all matters reserved except for access) sought for up to 595 dwellings including affordable housing; a two form entry primary school with associated outdoor space and vehicle parking; local facilities comprising a Class A1 retail store of up to 480 sq m GIA and up to 560sqm GIA of "flexible use" floorspace that can be used for one or more of the following uses - A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), D1 (non-residential institutions); a rugby clubhouse / community building of up to 375 sq m GIA, three standard RFU sports pitches and associated vehicle parking; a link road between Borden Lane and Chestnut Street / A249; allotments; and formal and informal open space incorporating SuDS, new planting / landscaping and ecological enhancement works.

Full planning permission is sought for the erection of 80 dwellings including affordable housing, open space, associated access / roads, vehicle parking, associated services, infrastructure, landscaping and associated SuDS.

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

Granted at appeal 29.04.2021.

**Non-material Amendment and Conditions Applications associated with the Hybrid**

- 2.3. **22/503698/NMAMD:** Non-material amendment in relation to planning permission 17/505711/HYBRID and appeal reference V2255/W/19/3233606: To change the wording of condition 66 to 'Before the approval of reserved matters for any phase

**Appendix 1**

(excluding Phase 1A), the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works for that phase, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority'.

Granted 06.09.2022

- 2.4. **23/505421/NMAMD** - Approval of a non material amendment relating to the re-siting of primary school land.

Granted April 2024.

- 2.5. **22/500133/SUB**: Updated Baseline Ecological Report: Surveys for Breeding Birds, Bats, Reptiles and Dormouse (condition 58)

Granted 06.04.2022

- 2.6. **21/506820/SUB**: Revised Skylark Mitigation Strategy (condition 60)

Granted 11.04.2022 and legal agreement in place 15/09/2022.

- 2.7. **22/500640/SUB**: Phasing Plan (condition 2)

Granted 06.05.2022

- 2.8. **22/500639/SUB**: Construction Ecological Management Plan (CEMP) (condition 61)

Granted 06.05.2022

- 2.9. **22/500132/SUB**: Contaminated Land Assessment (condition 53)

Granted 23.05.2022

- 2.10. **22/502221/SUB**: Air Quality (condition 70)

Granted 06.02.2023

- 2.11. **22/501227/SUB**: Roads, Footways, Footpaths, Verges and Other Matters (condition 37)

Granted 06.02.2023

Reserved Matters

- 2.12. **22/504823/REM**: Approval of Reserved Matters (Layout, Scale, Appearance and Landscaping being sought) for the western spine road (Phases 2B & 2C) pursuant to 17/505711/HYBRID - Hybrid planning application with outline planning permission (all matters reserved except for access) sought for up to 595 dwellings including affordable housing; a two-form entry primary school with associated outdoor space and vehicle



**Appendix 1**

Report to Planning Committee – 6 August 2024

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

Granted 16.08.2023

- 2.13. **22/504937/REM:** Approval of Reserved Matters (appearance, landscaping, layout and scale) for Phase 1B, 2A, 2B and 2C for the erection of 209no. dwellings including affordable, together with associated access, landscaping, equipped play, drainage, infrastructure and earthworks, pursuant to 17/505711/HYBRID - Hybrid planning application with outline planning permission (all matters reserved except for access) sought for up to 595 dwellings including affordable housing; a two-form entry primary school with associated outdoor space and vehicle parking; local facilities comprising a Class A1 retail store of up to 480 sq m GIA and up to 560sqm GIA of "flexible use" floorspace that can be used for one or more of the following uses - A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), D1 (non-residential institutions); a rugby clubhouse / community building of up to 375 sq m GIA, three standard RFU sports pitches and associated vehicle parking; a link road between Borden Lane and Chestnut Street / A249; allotments; and formal and informal open space incorporating SuDS, new planting / landscaping and ecological enhancement works. Full planning permission is sought for the erection of 80 dwellings including affordable housing, open space, associated access / roads, vehicle parking, associated services, infrastructure, landscaping and associated SuDS.

Granted 06.11.2023

- 2.14. **23/500263/REM:** Approval of Reserved Matters for Scale, Appearance, Landscaping, Layout being sought for the Sittingbourne Rugby Club and Community Hub including, 2x RFU compliant rugby pitches and associated parking (Phase 2E), pursuant to application 17/505711/HYBRID.

Granted 13.11.2023

- 2.15. **23/505420/REM:** Approval of Reserved Matters (Appearance, Landscaping, Layout and Scale sought) for creation of the eastern spine road (Phase 2D), pursuant to 17/505711/HYBRID.

Currently under consideration

**Appendix 1**

Report to Planning Committee – 6 August 2024

ITEM 2.2

**3. PROPOSED DEVELOPMENT**

- 3.1. Permission is sought for the approval of levels and earthworks changes to Phase 2F (open space area/sports fields) and the Primary School Land. This area is shown on the approved phasing plan (with the position of the school land amended by 23/505421/NMAMD).
- 3.2. The submission advises that there are existing significant differences in levels within this phase of the wider site with the land sloping steadily towards the south. To tie the levels in with the remainder of the development area and achieve suitable gradients to allow for future recreational uses within this phase, the levels across the combined area needs to be reprofiled.

**4. CONSULTATION**

- 4.1. Two rounds of consultation have been undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. 11 letters of representation were received in relation to the consultation. Concerns/ comments were raised in relation to the following matters:

<b>Comment</b>	<b>Report reference</b>
The application fails to take into account the skylark nesting plots that were supposed to have been implemented as mitigation. The mitigation area is located on the land now identified for a third rugby pitch and kick about area.	7.6.6, 7.6.13, 7.6.15 – 7.6.17
There are badgers on the land designated as a rugby pitch.	7.6.6 – 7.6.14
Parking provision should be made.	7.12.1
It has not been made clear who will be responsible for maintaining the pitches.	7.12.1
Public right of ways ZR117 and ZR118 are not shown on the submitted plans.	7.7.7
Is there a need for kick about space?	7.12.1
Sports England have severe reservations owing to lack of parking and run off requirements.	7.12.1
There should be more hedgerows, shrubs and trees on the site.	7.5.3 – 7.5.5, 7.6.10, 7.6.12

**Appendix 1**

Report to Planning Committee – 6 August 2024

ITEM 2.2

It is difficult to understand what is being applied for.	7.12.1
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4.3. **Borden Parish Council** objected to the application on the following grounds:

<b>Comment</b>	<b>Report reference/ clarification</b>
The area should be a recreation area with natural habitat but not designated as a rugby training pitch and kickabout area.	7.12.1
The noise and disturbance caused by sports pitches would be detrimental to the skylark mitigation site immediately adjacent to the land.	7.6.6, 7.6.13, 7.6.15 – 7.6.17

4.4. No further letters of representation were received in relation to the second consultation.

4.5. **Borden Parish Council** made the following comment:

<b>Comment</b>	<b>Report reference/ clarification</b>
Wish to ensure that the site will be a public open natural habitat space for wildlife which also ensures the protection of the neighbouring skylark mitigation sector	7.6.6, 7.6.13, 7.6.15 – 7.6.17, 7.12.1

## 5. REPRESENTATIONS

5.1. Set out below is a summary of matters raised in representations, with the comments reflecting the final position of the consultee. There have been two rounds of consultation for most consultees. For those individual consultees that have been consulted more than twice, it is stated under their heading below.

5.2. **SBC Heritage:** – No objection.

5.3. **SBC Tree officer:** – Proposal is acceptable from an arboricultural perspective. Provided these are conditioned, no objection.

5.4. **Mid Kent Environmental Health:** - Generally no further comment or recommendations to make to those contained in our response during the consultation for the outline approval. Given the potential to remove or import soil, it is important to ensure any recommendation for remediation of this area in terms of land contamination are followed.

Given that earthworks could cause issues in terms of noise and dust, it is recommended a revision to the Construction Management Plan is submitted to address the impact from this work. A condition is recommended.

5.5. **KCC Ecology:** – Understand the intention to retain the tree lines and hedgerows on the site boundaries. There is a need to ensure that measures are in place to ensure that badgers are not impacted by the proposal which can be addressed within the construction management plan.

**Appendix 1**

- 5.6. **KCC Flood and Water Management:** - Raise no objections. Advise that following the earthworks, the resulting planting (including grasses) is hastily seeded and maintained through to establishment to prevent against runoff from bare soils.
- 5.7. **National Highways:** – Raise no objection.
- 5.8. **KCC Highways:** - Following clarification that that there is no intention for there to be either the import or export of material in connection with the submission, they consider that there are no highway implications associated with the proposals.
- 5.9. **Kent Minerals and Waste:-** No land-won minerals or waste management capacity safeguarding objections or comments to make.
- 5.10. **KCC PROW:** – Have raised objection for the following reasons:
- Initially commented to say submission shows Public Footpath ZR119 but omits Public Footpath ZR117.  
Comments relate to the no specific timescales for development to within the later development that is mentioned (the school).
- Reference in the covering letter to works prior to the RM application, but no further timescale is given, or a timescale of the duration of the works.
- Other comments remind the applicant of the process and consents required for temporary diversions and closures.
- 5.11. **Kent Police:** – The application falls outside the scope of what Kent Police would comment on.
- 5.12. **Natural England:** - Considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- 5.13. **Environment Agency:** - The EA is not a statutory consultee for reserved matters applications so no longer provide comments on these consultations. Take account of any planning conditions, informatives or advice and comments provided in our response to the outline application.
- 5.14. **Southern Water:** – No objection.
- 5.15. **Sport England:** – Initially questions were raised with regard to the pitches. However, following receipt of revised plans showing the removal of the pitches, Sport England raise no objection to the proposal.
- 5.16. **Swale Footpath Group:** - Advised that the site is crossed by two footpaths ZR117 and ZR119.
- 5.17. **Lower Medway Internal Drainage Board:** – The site is outside the drainage district of the Lower Medway Internal Drainage Board. No comment to make at this time.

6. DEVELOPMENT PLAN POLICIES

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

- ST1** Delivering sustainable development in Swale)
- ST5** Sittingbourne Area Strategy
- CP4** Requiring Good Design
- CP7** Conserving and Enhancing the Natural Environment: Providing for Green Infrastructure
- CP8** Conserving and Enhancing the Historic Environment
- MU3** Land at South-West Sittingbourne
- DM6** Transport Demand and Impact
- DM14** General Development Criteria
- DM17** (open space, sports and recreation provision)
- DM21** Water, Flooding and Drainage
- DM24** Conserving and Enhancing Valued Landscapes
- DM28** Biodiversity and Geological Conservation
- DM29** Woodlands, Trees and Hedges
- DM31** Agricultural Land
- DM32** Development Involving Listed Buildings
- DM33** Development Affecting a Conservation Area
- DM34** Scheduled Monuments and Archaeological Sites

7. ASSESSMENT

7.1. This application is reported to the Committee at the request of Cllr Baldock and because Borden Parish Council has objected to the proposal. Considering these comments, the committee is recommended to carefully consider the following points:

- The Impact upon the skylark mitigation land.
- That the land be open natural space and not have pitches marked out.

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

- The Principle of Development
- Landscape and Visual
- Landscaping and Trees
- Ecology
- Highways and Public Right of Way

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- Heritage
- Contamination
- Flooding, Drainage and Surface Water
- Living Conditions
- Other Matters

**7.3. Principle**

- 7.3.1. 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.
- 7.3.2. 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.
- 7.3.3. The principle of the development is established by the appeal decision dated 29 April 2021 granting hybrid planning permission listed above under reference 17/505711/HYBRID which included a primary school shown on the masterplan to be located to the south of a spine road that is to run east-west through the overall development connecting through from Borden Lane to Chestnut Street. In terms of construction, the Phasing Plan approved on 06/05/2022 under reference 22/500640/SUB shows the school to come forward as phase of its own. This application relates to land within this Primary School Phase, Phase 2F – woodland and landscape buffer, grassed area and recreational land and a small section of Phase 1A (granted permission as the detailed element of the Hybrid application).
- 7.3.4. The submission advises that there are existing significant level changes on this part of the site with the land sloping steadily towards the south. To tie the levels in with the remainder of the development area and to achieve suitable gradients to allow for future recreational uses on these phases, the levels across the combined area need to be reprofiled.
- 7.3.5. It is proposed that the earthworks are undertaken ahead of the detailed Reserved Matters submission for each of the abovementioned phases, to establish the development platform and ready the land for the delivery of the open space and primary school. It is intended that further information on the design and layout of the phases will be dealt with following determination of this submission either by way of conditions or the submission or further reserved matters applications.
- 7.3.6. The proposed levelling works would enable the implementation of the development of the site in accordance with the hybrid planning permission.
- 7.3.7. The need for the required works is acknowledge and the proposal is a rational approach to the preparation of the site ahead of securing reserved matters for the relevant phases. There is no objection to the principle of the levelling of the land.

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### 7.4. Landscape and Visual

7.4.1. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*'. The landscape and visual impacts of the overall development scheme was considered at the appeal stage to be acceptable.

7.4.2. The proposed levelling works shown on the submitted plan would cut and fill various parts of the parcel of land to level it out sufficiently that it can be developed for the school and to provide a more user-friendly space for the purposes of recreation.

7.4.3. The larger areas of cut and fill are generally located within the centre of the site with smaller levels of fill located to the edges.

7.4.4. Given the wider context of the site and that the works enable the general levelling of the land, rather than significant rising, or lowering of the entire plot, its visual impact is unlikely to be perceptible within the wider locality. There would be a negligible landscape impact given that the result of the works would be to tie the levels of the site into those of the surrounding land more appropriately. The land and its backdrop is identified for development which would change the appearance of the site more significantly than the minor site levelling proposed.

7.4.5. Given the above, the visual and landscape impact of the levelling works are acceptable and would accord with Policy DM24 of the Local Plan and the NPPF.

### 7.5. Trees

7.5.1. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through Policy DM29 of the Local Plan.

7.5.2. The application is accompanied by an Arboricultural Method Statement which confirms that it will not be necessary to remove or prune any trees to undertake the proposed earthworks.

7.5.3. There will be a minor increase in levels (c.0-0.6m in depth), within the root protection areas (RPAs) of the five retained trees. This is illustrated in the Tree Protection Plan that is attached to the Arboricultural Method Statement. It concludes that the shallow build-up of levels within the RPAs is achievable without impacting on the physiological or structural condition of the trees but must be sensitively installed to prevent root disturbance. The soil must be deposited by machine operating from outside the RPAs and must be spread/shaped to the required depth using hand tools only. It additionally advises that tree protection barriers are required to safeguard retained trees from damage.

7.5.4. The Council Tree Officer has assessed the submission and agrees with the conclusions reached in the submitted method statement and has no objection to the proposal.

7.5.5. Condition 44 of the hybrid planning permission requires the submission of full details of trees and hedges to be retained and removed for each phase along with protection measures. The information submitted as part of this application will need to be incorporated into the details for applications to be submitted seeking to discharge

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condition 44 for each phase. Condition 44 requires implementation of the details approved pursuant to that condition. As such a separate condition is not required for this application.

7.5.6. The proposal is considered acceptable and in accordance with Policy DM14 and DM29 of the Local Plan and the NPPF.

**7.6. Ecology**

7.6.1. 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 CP7 and DM28 of the Local Plan.

7.6.2. 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.'

7.6.3. 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".

7.6.4. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

7.6.5. There are no statutory nature conservation designations identified within or adjacent to the site.

7.6.6. Pre-commencement conditions in the hybrid planning permission relating to various aspects of ecology required the following details which are shown below with status:

- 
- Condition 58 – Updated baseline surveys for breeding birds, bats, reptiles and dormouse; (approved on 06/04/2022 – ref 22/500133/SUB).
- Condition 59 – Updated Badger Survey; (approved on 19/07/2024 for Western Link Road (Phases 2B & 2C), Eastern Link Road (Phase 2D) and Phase 2 Residential Phase (Phases 2A & 2C) – ref: 24/501002/SUB).
- Condition 60 – Revised Skylark Mitigation Strategy; (approved on 11/04/2022 – ref: 21/506820/SUB – Legal Agreement in Place dated 15/09/2022).
- Condition 61 - Construction Ecological Management Plan (CEMP); (approved on 06/05/2022 – ref: 22/500639/SUB); and



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- Condition 62 – Landscape and Ecological Management Plan (LEMP) to be submitted within 6 months of the commencement of development of any phase.
- 7.6.7. The application is accompanied by an Ecological Technical Note which provides an overview of the ecological survey work undertaken to date. This is extensive and is managed through conditions attached to the hybrid planning permission which would also apply to the earthworks.
- 7.6.8. The submitted Technical Note advises that the proposal is not considered to result in any additional effects further to those identified in Chapter 11 of the Environmental Statement accompanying the hybrid planning application (with the exception of Fierey Clearwing moth, only recorded in August 2023). No particular changes have been recorded to habitats or likely faunal constraints.
- 7.6.9. In accordance with condition 61 of the hybrid planning permission, safeguarding measures will be implemented in relation to faunal species including bats, badger, dormouse, nesting birds and reptiles.
- 7.6.10. If the application is approved, further details relating to Condition 62 require the submission of a LEMP for approval within 6 months of commencement of works on a phase and an updated badger survey will be required pursuant to condition 59 of the hybrid planning permission.
- 7.6.11. Given the above, it is concluded that no amendments or additions to the mitigation approach set out under the CEMP are required.
- 7.6.12. Discharge of the full reserved matters and conditions attached to the hybrid planning permission will deal with delivery of landscaping and other ecological features.
- 7.6.13. KCC Ecology have assessed the proposal and have concluded that the proposed earthworks will only be affecting habitat which would be impacted/lost as a result of the future forthcoming reserved matters application.
- 7.6.14. They state that the site to be impacted is used by foraging/commuting badgers and therefore there is a need to ensure that measures in place to ensure that badgers are not impacted by the proposal. They advise that this can be addressed within the construction management plan which is managed by condition on the hybrid planning permission as set out above.
- 7.6.15. A large number of consultation responses express concern regarding the impact on Skylark mitigation. Condition 60 of the hybrid planning permission required the submission of a revised Skylark Mitigation Strategy and a legal agreement secured to deliver any off-site mitigation. As set out above a mitigation strategy was approved under application ref 21/506820/SUB and off-site mitigation land secured by way of a unilateral undertaking under s106.
- 7.6.16. The strategy provides for mitigation areas that are not impacted by the current proposal and are located outside of the site. Swale's Planning Investigation Team have previously investigated the provision of the mitigation land and concluded that it had been provided in accordance with the provisions of the Unilateral Undertaking.

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- 7.6.17. The current proposal would not impact upon the Skylark Mitigation land and would not interfere with the requirements of the mitigation strategy. This has been illustrated on the skylark mitigation x earthworks plan which shows that the earthworks relate to a separate parcel of land to the mitigation areas. The plan also shows the landscape buffer which is required to be delivered under the planning permission, further reinforcing the boundary and separation from the adjacent Skylark Mitigation land.
- 7.6.18. Taking account of the existing conditional safeguards attached to the hybrid planning permission, the application is considered acceptable and the proposal is in accordance with Policy DM28 of the Local Plan and the NPPF.

**7.7. Highways and Public Rights of Way**

- 7.7.1. 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.”*

- 7.7.2. KCC Highways initially raised a question about the import or export of waste material from the site in connection with the cut and fill works, and the impact that this would potentially have on the surrounding highways network beyond the consented scheme.
- 7.7.3. A soil management strategy for the development was approved through condition 69 of the hybrid planning permission, under ref. 23/503581/SUB. The applicant confirmed there is no intention for there to be either the import or export of material from the site. Material will instead be redistributed on the wider site where necessary.
- 7.7.4. On this basis, there would be no wider highway impacts from the levelling works that is not already managed through the existing conditions. KCC Highways have therefore raised no objection.
- 7.7.5. Public footpath ZR119 runs from west to east through the area of earthworks and ZR117 cuts across a corner to the far west.
- 7.7.6. The Public Right of Way (PROW) Officer has raised objection to the proposal on the basis that both footpaths are not clearly shown on the plans; that no timescale has been provided for the works; and that no PROW strategy has been submitted regarding closures or management and states that the surface of the PROW must not be disturbed without agreement from the Highways Authority.
- 7.7.7. An amended plan has been submitted that shows both footpaths clearly labelled and that the route of the PROWs remain unchanged. This concern has therefore been addressed.
- 7.7.8. In relation to the timing of the works, as this is a reserved matter application, implementation and therefore timing is secured by condition 6 of the hybrid planning permission which is 2 years from the date of approval of the reserved matter.

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- 7.7.9. In relation to the absence of PROW strategy regarding closures or management and statement that the surface of the PROW route must not be disturbed without agreement from the Highways Authority, these are both matters that are controlled through Highways/ PROW legislation.
- 7.7.10. An informative would be placed on the permission advising of the need to engage with KCC PROW Officers. There is no planning objection to the proposal on highways grounds and the proposal is considered to be in accordance with Policy DM6 of the Local Plan and the NPPF.

**7.8. Heritage**

- 7.8.1. Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.
- 7.8.2. A similar duty exists where the proposed development will be within a conservation area where section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 7.8.3. The NPPF states that Local Planning Authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.8.4. The impact of the wider development on listed buildings and conservation areas was considered at the hybrid application stage. The Inspector considered that given the degree of separation from the development and for other reasons such as the scale of the proposed boundary screening, the development would not affect the setting and significance of the listed buildings and conservation areas within the locality.
- 7.8.5. Given the nature of the proposal which is to only alter levels to tie in with levels across the wider site, this proposal would not alter the conclusion of the Inspector and the Secretary of State when issuing the decision and granting planning permission for the hybrid application in that the wider development proposal would result in less than substantial harm. This proposal on its own would not result in harm to the Conservation Area or the Grade II\* and Grade II listed buildings located within it.
- 7.8.6. The proposal is in accordance with Policy DM32 and DM33 of the Local Plan and the NPPF.

**Appendix 1****7.9. Contamination**

- 7.9.1. 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.
- 7.9.2. Condition 53 of the hybrid permission required the submission of a contaminated land assessment for the whole site. Details have been submitted and approved under condition 53 on 23/05/2022 (ref: 22/500132/SUB). The Environmental Protection Team have highlighted that if there was removal or importation of soils, that remediation recommendations are followed. A soil management strategy for the development was approved through condition 69 of the hybrid planning permission, under ref. 23/503581/SUB and the applicant has confirmed there is no removal or importation of soils involved.
- 7.9.3. Stockpiling of soil is covered by other legislation and the construction work is already addressed through the details approved pursuant to condition 20 of the hybrid planning permission (Construction Management Plan). The proposal is considered compliant with Policy MU3 (10) and the NPPF.

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

- 7.10.1. 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 DM21 of the Local Plan.
- 7.10.2. Each phase within the overall development site is subject to a detailed drainage strategy to be submitted and approved before works commence (Condition 49) and ongoing maintenance prior to use/occupation (Condition 50). This will be submitted should the reserved matters be approved.
- 7.10.3. Given there has been no objection from KCC Flood and Water Management and that details are required to be submitted under condition 49, it is considered the proposal is in accordance with Policy DM21 of the Local Plan and the NPPF.

**7.11. Living Conditions***Existing residents*

- 7.11.1. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.11.2. The impact of the wider development of the hybrid proposal has already been considered at the appeal in terms of the impact on residents with regard to issues such as the traffic generation, noise and air quality.

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7.11.3. The impact on surrounding residents as a result of the construction activity will be controlled through conditions 20 (construction management plan) and 21 of the hybrid planning permission which restricts the hours of construction activity.

**7.12. Other Matters**

7.12.1. A number of consultation responses have made reference to rugby pitches. This has arisen due to the initial drawings submitted showing the outline of pitches within the open space. The applicant had drawn these outlines to ensure that should anyone want to use the space informally for sports, that there would be space. There was not an intention to white line the space with pitches on site. It is unfortunate that the applicant neglected to remove the outline and the labelling of the pitches prior to the submission of the application resulting in misunderstanding.

7.12.2. Formal provision for sport is to be provided at the Rugby Club site further to the east beyond Wises Lane and to the south of Cryalls Lane as approved under application reference 23/500263/REM.

**7.13. Conclusion**

7.13.1. 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.

7.13.2. The earthworks would tie the level of the site in with the remainder of the development area and achieve suitable gradients to enable the implementation of the development, the acceptability of which has already been established through grant of planning permission for 17/505711/HYBRID.

7.13.3. The earthworks would not have any impact beyond that of the hybrid planning permission. These impacts are controlled through the conditions placed on the overriding hybrid planning permission for the site.

7.13.4. This reserved matters application is in accordance with the terms of the hybrid planning permission and the policies in the Local Plan and NPPF.

**7.14. Recommendation**

Grant subject to conditions.

**CONDITIONS**

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

- 17-051-147 Site Location Plan
- 17-051-144-D Phase 2F Enabling Earthworks
- 17-051-145-D Phase 2F Enabling Earthworks Sections

**Appendix 1**

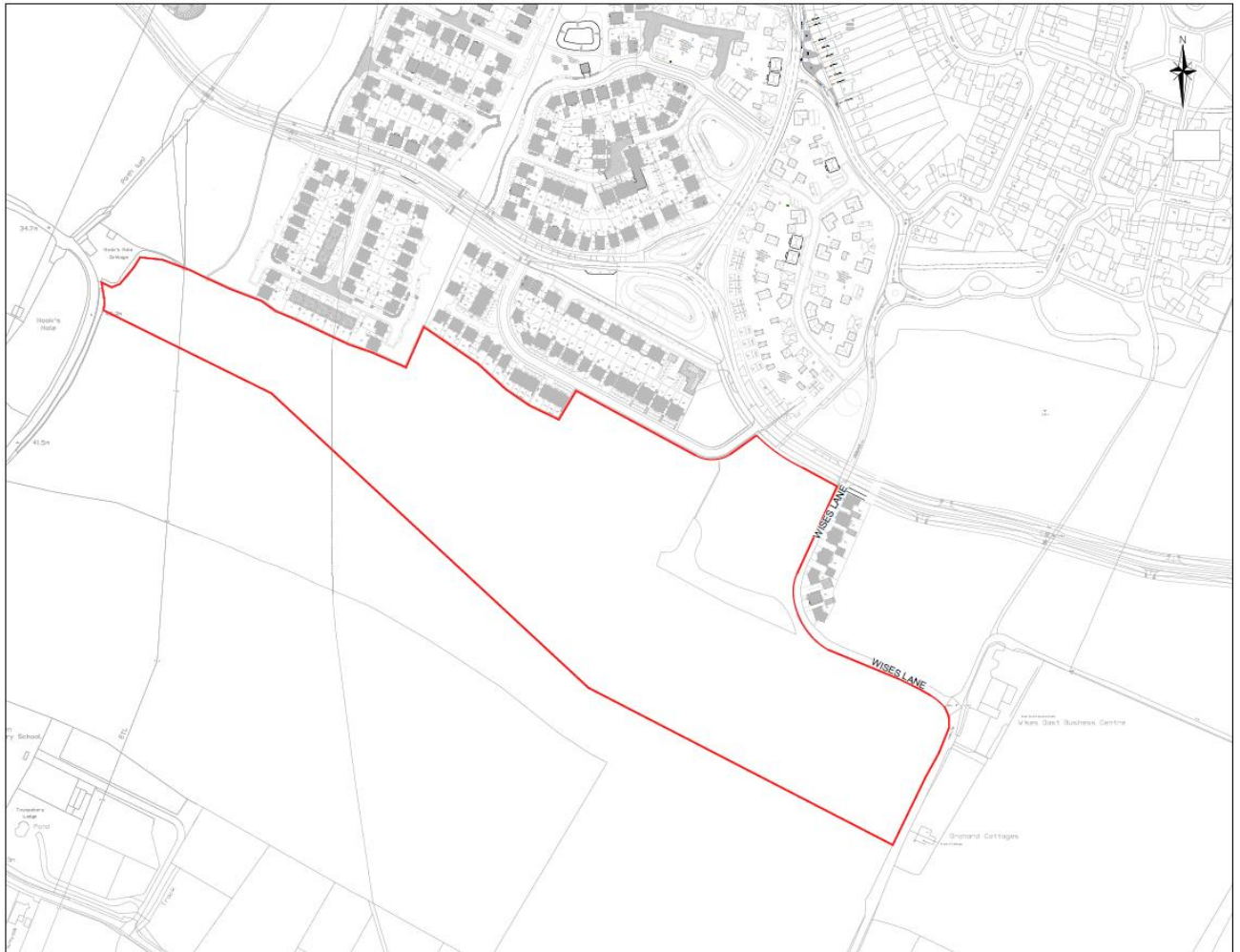
Ecology Technical Note dated March 2024

Cover Letter responding to KCC Highways, reference OK/15742 dated 09 May 2024

Arboricultural Method Statement, reference 10172\_AMS.005 and dated February 2024

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

**Appendix 1**



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## Appendix 2

## 157 2.2 - 24/500856/REM Land at Wises Lane, Borden

<b>2.2 REFERENCE NO 24/500856/REM</b>		
<b>APPLICATION PROPOSAL</b>		
Approval of reserved matters (Access, Appearance, Landscaping, Layout, and Scale sought) for levels and earthworks changes for Phase 2F and the Primary School Land pursuant to 17/505711/HYBRID		
<b>ADDRESS</b> Land At Wises Lane Borden Kent ME10 1GD		
<b>WARD</b>	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Karen Dunn
Borden and Grove Park	Borden	<b>AGENT</b> DHA Planning

The Planning Consultant introduced the application as set out in the report.

Oonagh Kerrigan, the Agent, spoke in support of the application.

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The Chair moved the officer recommendation to approve the application, and this was seconded by Councillor Andy Booth.

The Chair invited Members to make comments and points raised included:

- Concerned that the works could damage the hedgerows;
- sought assurance from the officer that the land levels would be completed as proposed, as there had been previous applications in the past when the developer had not delivered on what was promised;
- did not understand why the developer needed to level the landscaping in the open space area of the site;
- concerned that changing the levels of the land in the open space area would harm the visual amenity of the site;
- the 'levelling' of the site was not needed for people to walk along the open space as people already walked across those fields;
- could Members agree the change of levels for the school development and not the open space part of the site?;
- the least disruption to the wildlife and natural habitat, the better;
- could a condition be added for the wildlife buffer to be created first, before any 'levelling' of soil took place?;
- thought it was sensible to move soil from one location on the site to another location on the site rather than remove from the site to maintain consistency; and
- had real concerns with the disturbance to wildlife.

The Planning Consultant responded to points raised and explained to Members that condition (44) of the report, referred to the Tree Protection measures that would be put in place to ensure protection of the hedgerows. She added that the applicants' intentions were to provide a more gentle sloping of the open space to make it more accessible for people to use the space and that there was no provision for a sports field to be made.

The Planning Consultant explained that the developer wanted to provide a more gentle slope allowing increased accessibility. It was for the Committee to decide whether the proposal was acceptable in planning terms and whether there was any harm.

**Appendix 2**

The Planning Consultant advised that the application could not be approved in part and refused in part.

With regards to the wildlife buffer, the Planning Consultant explained to Members that this was not something that would normally be added prior to works as it would be difficult for the applicant to protect the new wildlife buffer, whilst the works were being carried out, as the trees and bushes would not have time to mature in their setting. This would usually be something that the applicant would carry out once the disturbance to the ground works had completed.

Councillor Terry Thompson moved the following motion: That an additional condition be added for the wildlife buffer to be created, before the earthwork's construction was started to minimise the impact to the wildlife. This was seconded by the Chair. On being put to the vote, the motion was carried.

Councillor Tony Winckless moved the following motion: That an additional condition be included which required the construction traffic to use the new link road at Chestnut Street, Sittingbourne, to access the site rather than using Wises Lane, Sittingbourne,

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and that haulage firms be told the route they were required to take before any works commenced on the site. This was seconded by Councillor Simon Clark. On being put to the vote, the motion was carried.

The Vice-Chair moved the following motion: That the application be deferred to allow officers to negotiate with the applicant to explore the possibility of re-levelling the land needed for the school site, rather than the open space area of the site. This was seconded by Councillor Richard Palmer. On being put to the vote, the motion was agreed.

***Resolved: That application 24/500856/REM be deferred to allow officers to negotiate with the applicant to explore the possibility of re-levelling the land needed for the school site, rather than the open space area of the site.***

<b>2.4 REFERENCE NO - 24/500508/FULL</b>		
<b>PROPOSAL</b> Existing garage to be converted to utility room and erection of a side extension to be used as a store.		
<b>SITE LOCATION</b> Camwa Ash Bull Lane Boughton Under Blean Faversham Kent ME13 9AH		
<b>RECOMMENDATION</b> 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.		
<b>APPLICATION TYPE</b> Householder		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Boughton under Blean Parish Council Objection		
<b>CASE OFFICER</b> Mandi Pilcher		
<b>WARD</b> Boughton & Courtenay	<b>PARISH/TOWN COUNCIL</b> Boughton under Blean	<b>APPLICANT</b> Y Veliu <b>AGENT</b> Mr S Wilkins
<b>DECISION REGISTERED</b> 09/02/2024	<b>TARGET DATE</b> 05/04/2024	
<b>BACKGROUND PAPERS AND INFORMATION:</b> <b>Documents referenced in report are as follows: -</b>  All drawings submitted All representations received  The full suite of documents submitted pursuant to the above application are available via the link below: - <a href="https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=S8FTW3TYIM400">https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=S8FTW3TYIM400</a>		

1. SITE LOCATION AND DESCRIPTION

- 1.1 Camwa Ash is a two storey end terraced property within the built up area of Boughton Under Blean and the Boughton Street Conservation Area.
- 1.2 Camwa Ash is situated at the junction of Bull Lane and The Street. There is a private amenity space to the side and rear. The boundary treatment is comprised of a small wall and large hedge. The property has one parking space within its curtilage.

2. PLANNING HISTORY

- 2.1 **SW/92/0886** Planning permission withdrawn on 13.11.92 for a front/side extension to form hobbies workshop.

**3. PROPOSED DEVELOPMENT**

- 3.1 The application seeks planning permission for the existing garage to be converted to a utility room and the erection of a side extension to be used as a store.
- 3.2 The garage conversion will incorporate the removal of the garage door and the insertion of brickwork and a uPVC window to the front elevation.
- 3.3 The proposed side extension would measure approximately 7.3m in depth by 4.2m wide with timber folding doors on the front elevation and a single door and window on the rear elevation. The extension would have a maximum height of 3.3m with a flat roof and a roof light hidden behind a parapet wall, with stone coping.
- 3.4 The external materials will match that of the existing dwelling.
- 3.5 The drawings also show hardstanding being laid to the front of the dwelling. 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 has been undertaken, during which letters were sent to neighbouring occupiers; a site notice was displayed at the site and the application was advertised in the local newspaper. No letters from neighbours were received.
- 4.2 **Boughton under Blean 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):

<b>Comment</b>	<b>Report reference</b>
No evidence regarding sufficient turning space within the drive;	Paragraphs 7.24 and 7.25
No evidence that a vehicle would be able to access the garage;	Paragraphs 7.24 and 7.25
Concerns regarding vehicular and pedestrian safety if vehicles were required to reverse onto the highway;	Paragraph 7.25
Alternative access to the garage would not be appropriate as it would be located too close to a junction and would require the loss of the hedge;	Paragraph 7.27
Wish to see comments from the Conservation Officer;	Paragraph 5.1
The flat roofed garage would harm the conservation area.	Paragraph 7.10

- 4.3 The application was subsequently amended to propose a store rather than a garage (although the proposal was unaltered in terms of the siting and design of this element of the proposal). Boughton under Blean Parish Council were re-consulted and continued to raise an objection on the following summarised grounds:

<b>Comment</b>	<b>Report reference</b>
The original application justified the loss of the existing garage with the newly proposed garage, however, this element of the scheme, which strongly resembles a garage, is now described as a store;	Paragraphs 7.24 and 7.25
The property will lose a car parking space from the current garage leaving only one space, 3 spaces would be required to comply with local policies;	Paragraph 7.26
The flat roofed design is unacceptable;	Paragraph 7.10
The extension would have an unbalancing effect on the terrace, giving rise to harm to the streetscene;	Paragraph 7.10
The extension would represent overdevelopment;	Paragraph 7.10
There has been a similar application on the site which was withdrawn;	Paragraph 7.27
The property already has a small single storey side extension which is not shown on the submitted plans.	Paragraph 7.27

5. REPRESENTATIONS

- 5.1 **SBC Conservation Officer:** Raised no objection and commented that although there is a general presumption against prominent flat roofed extensions there are circumstances where the use of a flat-roofed design may be considered more appropriate than a traditional pitched roof design. In this case the flat roofed design with its well-detailed parapet roof design would help to keep the visual bulk of the extension at the end of the terrace of houses to a more acceptable level, and would help to retain a visual sense of greater space around the end of terrace application property, particularly given that it is proposed to retain the tall hedging around the road frontage to the application property. The flat roofed design means that the proposed side extension would barely read in the conservation area street scene, and the wall tile hanging, which is a strong architectural feature of the application property and the adjoining terrace house to the north, would be largely retained and could continue to be read in views from The Street.

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

**DM32** Development involving listed buildings

**DM33** Development affecting a conservation area

**6.2 Boughton and Dunkirk Neighbourhood Plan (BDNP) – policies:**

***E7** Development within the village envelope will be supported in principle providing it promotes the re-use, recovery and restoration of previously developed sites.*

***E9** Variety in density, layout, building orientation and sizes will be sought to reflect the local context. Building styles and materials must also respect and positively contribute to local distinctiveness.*

***T3** Future residential and non-residential buildings shall have sufficient dedicated on-site parking spaces to avoid the need for parking on adjacent roads in accordance with the Parking Standards set out in BD4.*

***H8** Proposals for new residential development in the Plan area shall ensure that adequate on-site car parking provision is made in accordance with the Borough Council's approved Parking Standards SPD (adopted June 2020). Development proposals which involve the loss or conversion of existing on-site car parking spaces, for example the conversion of a garage to living accommodation, will only be supported where adequate on-site parking provision, in accordance with the Parking Standards, remains available to support the completed development.*

**6.3 Supplementary Planning Guidance/Documents**

Supplementary Planning Guidance - Designing an Extension – A Guide for Householders & Conservation Areas

Supplementary Planning Document - Swale Parking Standards

**7. ASSESSMENT**

7.1 This application is reported to the Committee because Boughton under Blean 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 / Heritage
- 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 Boughton Under Blean and therefore the principle of development is considered acceptable subject to the consideration of other material planning considerations as discussed below.

### **Character and appearance / Heritage**

- 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 Policies CP4, DM14 and DM16 of the Local Plan state that developments and extensions should be well designed and respond positively to the building and its surroundings.
- 7.8 In addition, the National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.9 Policy DM33 of the Local Plan requires proposals to preserve or enhance the conservation area's special character or appearance.
- 7.10 The site is located in the Boughton Street conservation area and the surrounding area is comprised of dwellings constructed in a variety of styles and designs, a number of which are listed. In terms of the side extension, it is set back from the front elevation by 0.2m and incorporates a parapet wall, hiding the flat roof and will be constructed from external materials matching the existing dwelling. Concern has been raised by the

Parish Council that a flat roof design is not appropriate. In this case, as set out in the Conservation Officer's comments (paragraph 5.1), the design of the extension would reduce its visual bulk compared to a pitched roof and would allow it to be largely hidden in the streetscene due to the existing hedge. On this basis it is considered to be of an appropriate scale and design. As such it is considered that this element of the scheme would no detrimental impact upon the streetscene and would preserve the character and appearance of the conservation area.

- 7.11 The other element of the scheme which would be visible on the front elevation includes the removal of the existing garage door and replacement with a uPVC window and brickwork to match the existing dwelling. It is considered that this is a small change that would simply repeat the materials already present on the dwelling and will preserve the character and appearance of the conservation area.
- 7.12 On the basis of the above, the scheme has been appropriately designed and would sit comfortably in the streetscene. It is considered that the proposal would preserve the character and appearance of the conservation area. Therefore the application complies with policies CP4, DM14, DM16 and DM33 of the Local Plan.
- 7.13 Policy DM32 of the Local Plan requires proposals to preserve the setting of listed buildings.
- 7.14 The front elevation of the existing dwelling faces towards No.258 The Street, which is a grade II listed building whilst the side elevation faces towards No.s 209 and 211 The Street, which are also grade II listed buildings.
- 7.15 The existing setting of these listed buildings is already comprised of built form, including the host property. As set out above, it has been concluded that the design and scale of the proposal is acceptable and therefore it is considered that the proposal would in turn preserve the setting of the listed buildings as referred to above. The scheme as a result complies with policy DM32 of the Local Plan.
- 7.16 In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

### **Living conditions**

- 7.17 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.



- 7.18 The proposed side extension is approximately 1.5m off the boundary with the highway and separated by a high hedge. Due to the side extension being on the end of the terrace of properties and adjacent to a highway, the closest property which could be impacted by the proposal is No.250 The Street. However, the proposed extension is separated from the side extension of this property by approximately 6m, sitting only marginally forward of its front elevation. As a result, there would be no significant impact on neighbouring amenities from this element of the proposal in terms of overshadowing or a loss of outlook.
- 7.19 The garage conversion would not increase in 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 a new window which would replace the existing garage door, however this 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.
- 7.20 Taking the above into account the proposal is considered to have an acceptable impact upon on the living conditions of surrounding dwellings in accordance with policies DM14 and DM16 of the Local Plan 2017.

#### **Highway safety and parking**

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

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

- 7.22 The NPPF also states that:

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

- 7.23 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policies T3 and H8 of the BDNP require proposals to have sufficient on-site parking space and for developments to be in accordance with the Council’s Parking SPD.
- 7.24 When the application was first submitted, the side extension was described as a garage / store. The Parish Council raised concern that it was not clear as to whether a car would be able to access the garage due to the layout of the site. Clarification was received from the agent during the course of the application that is not the intention of the applicant to use the garage / store for parking a vehicle, but for it to be used for cycle, bins and general storage. The application has subsequently been amended to refer to the extension being used as a ‘store’. The agent has also confirmed that the proposal

does not include adequate turning for vehicles as on the basis of the above the proposal would not require this.

7.25 The points provided by the agent are considered to be a reasonable response. However, even in a scenario where the store was to be used as a parking space, what appears to be a difficult manoeuvre would take place entirely inside the applicant's curtilage, therefore having no impact upon the highway. Although the point regarding vehicles reversing onto the highway, as raised by the Parish Council is noted, I give significant weight to the fact that this manoeuvre can already take place by virtue of the driveway that currently exists. As such, if a car was to reverse onto the highway then this would be no more harmful in highway safety terms than the existing situation.

7.26 I also note that concern has been raised by the Parish Council regarding the loss of the garage as a parking space and that the property would not benefit from the policy required number of parking spaces. The space within the existing garage measures 2.2m in width and 4.2m in depth. This falls significantly below the minimum garage size of 3.6m x 7m, as set out in the Council's adopted Parking SPD. As a result, the existing garage is undersized and would not be large enough to park a vehicle within. There is, as existing, only one usable parking space serving the property. The proposed scheme would retain this parking space on the driveway. The drawings also shows that part of the frontage of the site would be hard landscaped, which as has been confirmed by the agent, will be done so using permeable materials and therefore not require planning permission. Notwithstanding this, this area could also potentially be used for parking. As such, this could result in an increase in parking numbers compared to the current situation. On the basis of the above, the proposal does not include any additional bedrooms and the parking provision would be no worse than the current arrangement. Weight is also given to the lack of any restrictive condition related to the existing garage and as a result, it would appear that this element of the scheme could also be carried out without the need for planning permission. On this basis, the proposal would not give rise to any additional harm in respect of highway safety or convenience and as a result complies with policies T3 and H8 of the BDNP and the Council's Parking SPD.

### **Other Matters**

7.27 A number of the comments raised by Boughton under Blean Parish Council have been considered by virtue of the discussion above. Of those that remain I comment as follows. Firstly, although an application was withdrawn in 1992, the details as to why this was the case are not available. It is not therefore considered that this should have any bearing on the current application, submitted some 32 years later which has been assessed against current policies as set out above. The property previously had a small structure close to the side elevation, however, this has now been largely removed and is essentially an open area of domestic storage. Finally, an additional access is not proposed so no further comment is made in respect of this point.

## **8. CONCLUSION**

8.1 On the basis of the above, the scheme is considered to be in compliance with policies

ST3, CP4, DM14, DM16, DM32 and DM33 of the Local Plan and the relevant policies in the BDNP. 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 drawing CA\_002 rev B.

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

- (3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those stated on the Application Form.

Reason: In the interests of visual amenity.

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

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), 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 applicant/agent was advised of minor changes required to the application and these were agreed.



**PLANNING COMMITTEE – 10<sup>th</sup> October 2024**

**PART 2**

Report of the Head of Planning

**PART 2**

Applications for which **PERMISSION** is recommended

<b>2.1 - REFERENCE NO 23/505558/FULL</b>		
<p><b>PROPOSAL</b> Proposed change of use of the existing first and second floor from office use (Class E) to residential (use Class C3), including the erection of an additional third floor and a three-storey rear extension to create a total of 22 self-contained residential flat units.</p>		
<p><b>SITE LOCATION</b> Junction of 87 High Street and 1-5 Central Avenue, Sittingbourne, Kent, ME10 4AU</p>		
<p><b>RECOMMENDATION</b> Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement as set out in the report, with further delegation to the Head of Planning / 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.</p>		
<p><b>APPLICATION TYPE</b> <i>Full planning permission</i></p>		
<p><b>REASON FOR REFERRAL TO COMMITTEE</b> - The application involves Council-owned land.</p>		
<p><b>Case Officer</b> Joanna Dymowska</p>		
<b>WARD</b> Chalkwell	<b>PARISH/TOWN COUNCIL</b>	<p><b>APPLICANT</b> Sleek Direct London Limited</p> <p><b>AGENT</b> Ken Judge &amp; Associates Ltd</p>
<b>DATE REGISTERED</b> 11/01/24	<b>TARGET DATE</b> 11/04/24	
<p><b>BACKGROUND PAPERS AND INFORMATION:</b> Documents referenced in the report are as follows: -</p> <p>All drawings submitted All representations received</p> <p>Revised Proposed First and Second Floor Plan, ref. 2666/11 rev. F, Sept 23 Revised Proposed Third Floor Plan &amp; Roof Plan, ref. 2666/12 rev. C, Sept 23, Proposed Elevations, 2667/13 rev. D, Sept 23 Proposed Sections, 2667/15 rev. A, Nov 23 Proposed Block Plan, 2557/16 rev. A, Nov 23</p>		

Energy Statement (NRG Consulting, November 2023)  
Drainage Strategy (SuDS Report, ref. C3238-R1-REV-A, Nimbus Engineering Consultants)  
Noise Impact Assessment (DAA Group, Issue 01, 20<sup>th</sup> October 2023)  
Transport Statement (GTA, ref. 12768, November 2023)  
Construction Management Plan (NRG Consulting November 2023)  
Air Quality Assessment (NRG Consulting, November 2023)  
Employment Review Update Study (October 2023, Stantec),

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=S57C6CTYIEY00>

## 1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site is a three-storey, flat-roofed building dating from the 1960s, that is in commercial use and positioned on the prominent corner of High Street and Central Avenue and at the heart of Sittingbourne Town Centre.
- 1.2. The ground floor of the building is occupied by a bank (NatWest), whereas the upper stories comprise vacant office accommodation. The previous first and second-floor occupiers (NAG Recruiting and MFW Accountants) vacated the premises more than a year ago due to the businesses relocating.
- 1.3. The application site falls within the Sittingbourne Conservation Area, the town centre boundary, the Primary Shopping Frontage and within the Central Sittingbourne Regeneration Area. Listed buildings surround the application site to the west and north. Sittingbourne United Reformed Church is approximately 21 metres to the west of the application site. There are also listed buildings directly adjacent to the east and north of the application site.

## 2. PLANNING HISTORY

- 2.1. The planning history of this site mainly relates to advertisement consents for the commercial use of the site. As these are not relevant to this proposal they have not been included here. The planning history of most relevance to this application is set out below:-

**19/505932/FULL:** Planning permission granted on 13.03.2020 for change of use of the first floor from a recruitment agency (Class A2) to a training unit (Class D1).

## 3. PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the change of use of the existing first-floor and second-floor office accommodation to residential. In addition, the erection of an additional third-floor and three-storey rear extension to the rear is proposed to provide, in total, 22 self-contained flats. The proposed flats would provide the following housing mix:-

- 1-bedroom x 7 units
  - 2-bedroom x 10 units
  - 3-bedroom x 5 units
- 3.2. Three of the 22 flats will be provided as affordable housing (First Homes). The proposed floor plan marks affordable flats as Flat 15 (two-bed), 21 and 22 (one-bed).
- 3.3. Relating to the proposed roof extension, this would create an additional storey to the building and be stepped back by approximately 8 metres from the front elevation of the building (facing High Street) and 2 metres from the side elevation (facing Central Avenue). The proposed roof extension would have a contemporary appearance and be of flat roof design. The materials used are metal cladding, with further details/samples to be secured via the safeguarding conditions. A glass balustrade is incorporated along the edges of the roof for safety reasons.
- 3.4. The proposed rear extension would be three stories high and continue the architectural approach of the existing building by using matching fenestration patterns and materials in the overall design. The ground-floor element will be constructed with brick and will provide under-croft parking.
- 3.5. Seven parking spaces are provided as part of the development. Three spaces will be reserved for commercial use on the ground floor (currently occupied by NatWest), and four spaces will be provided for residential use. Parking spaces will be accessed from the existing access point off Central Avenue. The proposed development includes 24 covered cycle spaces. The designated refuse/recycling area is situated along the western boundary of the application site.
- 3.6. The proposal includes a deep cleaning of the existing concrete panels, as indicated on the proposed elevation drawing ref.2667/12 rev. B. In addition, it is proposed that the existing windows within the building be replaced with new double-glazed steel-framed dark grey windows.

#### 4. CONSULTATION

- 4.1. Two rounds of consultation were undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site, and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. In total, two letters of representation were received in relation to the consultation. One of these letters raised an objection to the application. Concerns/ comments were raised in relation to the following matters: -

<b>Comment</b>	<b>Report reference</b>
Swale BC should encourage businesses back to the high street, not make it difficult for them to thrive.	7.2.13
The site is inappropriate for residential due to the surrounding noisy environment (nightclub).	7.15.6

- 4.3. The remaining letter was provided by the Sittingbourne Society. They did not object but commented, raising the following points:-

Comment	Report reference
Details of affordable housing should be provided.	3.2, 7.4.1 – 7.4.6,
The third storey is overpowering to the street scene and is near listed buildings.	7.5.8 - 7.5.10
Improvements to the current dirty concrete elevation should be secured.	7.5.9, Condition 5

## 5. REPRESENTATIONS

- 5.1 **KCC Highways** – No objections raised. Initially requested clarification on refuse collection arrangements and the number of cycle spaces proposed. Following confirmation that 24 cycle spaces will be provided (details secured via condition) and that the refuse will be collected from the main road, no objections were raised.
- 5.2 **KCC Ecology** – No objections raised, as the proposed development has limited potential to result in significant ecological impacts.
- 5.3 **KCC LLFA (SuDS)** – No objections subject to conditions requiring a detailed drainage scheme and submission of verification report prior to the occupation.
- 5.4 **KCC Economic Development** – No objections, subject to financial mitigation towards community infrastructure, including:-

Type of infrastructure	Cost	Project
Secondary Education	£25,142.40	Towards a new secondary school in Northwest Sittingbourne (Local Plan Policy MU1) <u>and/or</u> a new secondary school in Sittingbourne nonselective and Sittingbourne & Sheppey selective planning group areas.
Special Education Needs & Disabilities (SEND)	£2,519.28	SEND contribution to be applied towards additional places in the Swale district.
Community Learning and Skills (Adults)	£752.62	Additional equipment and resources for adult education centres serving the development, including outreach provision.
Integrated Children's Services	£1,332.90	Additional equipment and resources for the Integrated



		Children's Services in Sittingbourne, including outreach provision, are needed.
Libraries, Registrations and Archives Service	£1,377.86	Towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including Sittingbourne.
Adult Social Care	£3,979.36	Towards Specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting Community facilities, sensory facilities, and Changing Places within Swale.
Waste	£4,270.86	Towards additional capacity at Sittingbourne HWRC & WTS.
All homes to be built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)		
All to be index-linked by the All-In Tender Price Index from Q1 2022 to the date of payment.		

- 5.5 **NHS** – No objections, subject to financial mitigation being secured in s.106 agreement to mitigate pressure on healthcare arising from the proposed development, as set out below:-

Amount of contribution	Mitigation project
£16,416	Towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.

- 5.6 **Southern Water** – No objections raised, requested an informative requiring details of foul water and surface water disposal to be submitted. Southern Water noted that separate applications under Section 106 of the Water Act will have to be submitted.
- 5.7 **Kent Police** – No objections, subject to informative requiring engagement with Designing out Crime Officers (DOCO's) to incorporate Secure By Design (SBD) as appropriate.

- 5.8 **Natural England** – No objections, subject to financial contributions towards mitigation of additional recreational pressure upon North Kent Special Protection Areas (SPA).
- 5.9 **UK Power Network** – No objections were raised, and notes were made that the proposed development is in close proximity to the substation and that no built development should be located within 7 metres from the substation.
- 5.10 **Environmental Protection Team** – No objections raised, subject to the noise mitigation and air quality standard mitigation (EV charging) being secured via safeguarding conditions.
- 5.11 **Historic England** – No comments offered – referred to the Council's Heritage Officer.
- 5.12 **Environment Agency** – No comments to make on this planning application as it falls outside of EA remit as a statutory planning consultee.
- 5.13 **KCC Archaeology** – No objections, subject to safeguarding condition requiring further evaluation.
- 5.14 **Lower Medway Internal Drainage Board** – No comments.
- 5.15 **SBC Urban Design** - The proposal appears to be an appropriate form of development that responds to the site's capacity for growth within policy constraints. The architectural language of the proposal has been informed by the host building, with the three-storey rear extension simply following the scale, architectural language, and materials of the existing building. The roof extension's appropriate scale and significant setbacks would ensure that it would appear visually subservient to the host building and help to reduce its presence within the townscape. This would be supported by the use of appropriate materials and fenestration patterns. Overall, the design proposed is appropriate to the context and would be acceptable subject to standard design conditions, including samples of materials and details of windows.
- 5.16 **SBC Heritage** – No objections. Commented that deep cleaning of the existing elevations and replacement windows would have a modest positive impact on the street scene and conservation area. The additional storey should be set back from the front elevation to avoid an over-dominating effect.
- 5.17 **SBC Greenspaces Officer** - No objections, subject to financial contributions towards off-site open space improvements at Sittingbourne Recreation Ground (500 metres from the site) for increasing the capacity of the play area and sports pitches through improvements to the existing provision
- 5.18 **SBC Affordable Housing** - Supports the proposed development and delivery of First Homes.
- 5.19 **SBC Climate Change** – No objections raised.

## 6. DEVELOPMENT PLAN POLICIES

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

**ST1:** Delivering sustainable development in Swale

**ST3:** The Swale settlement strategy

**ST5:** The Sittingbourne area strategy

**CP1:** Building a strong, competitive economy

**CP2:** Promoting sustainable transport

**CP3:** Delivering a wide choice of high-quality homes

**CP4:** Requiring good design

**CP5:** Health and wellbeing

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

**CP7:** Conserving and enhancing the natural environment – providing for green infrastructure

**CP8:** Conserving and enhancing the historic environment

**Regen 1:** Central Sittingbourne Regeneration Area

**DM1:** Maintaining and enhancing the vitality and viability of town centres and other areas

**DM6:** Managing transport demand and impact

**DM7:** Vehicle parking

**DM8:** Affordable housing

**DM14:** General development criteria

**DM16:** Alterations and extensions

**DM17:** Open space, sports and recreation provision

**DM19:** Sustainable drainage and construction

**DM20:** Renewable and low-carbon energy

**DM21:** Water, Flooding and drainage

**DM28:** Biodiversity and geological conservation

**DM32:** Development involving listed buildings

**DM33:** Development affecting a conservation area

**DM34:** Scheduled Monuments and Archaeological Sites

### 6.2 Supplementary Planning Guidance / Documents:

- The Sittingbourne Town Centre Supplementary Planning Document
- SBC Parking Supplementary Planning Document
- Sittingbourne Conservation Area Appraisal and Management Plan 2021

## 7 ASSESSMENT

7.1 This application is reported to the Committee because the development is located on land owned by Swale Borough Council. The main considerations involved in the assessment of the application are:-

- Principle
- Size and type of housing
- Affordable Housing
- Community Infrastructure
- Open Space
- Character and appearance

- Heritage
- Archaeology
- Ecology
- Transport and Highways
- Air Quality
- Sustainability
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions

## 7.2 Principle

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

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

7.2.3 Paragraph 11 of the NPPF states that where the policies which are most important for determining the application are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

7.2.4 The site is previously developed and brownfield land, and the National Planning Policy Framework (NPPF) in paragraph 124 states that substantial weight should be given in planning decisions to the value of using suitable brownfield land within settlements for homes and other identified needs and support appropriate opportunities to remediate derelict land. The proposals would align with the NPPF in this regard.

7.2.5 Paragraph 123 of the NPPF states that planning decisions should promote effective land use, which contributes to the environmental objective of sustainable development, as defined by paragraph 8.

7.2.6 Policy ST1 of the Local Plan supports sustainable development on both identified and suitable sites within the borough. Policy ST3 states that Sittingbourne's urban centre will provide the primary urban focus for growth, and development will support town centre regeneration and underpin the town's role as the principal centre.

7.2.7 Policy ST5 supports the creation of housing and other mixed uses within the Sittingbourne town centre regeneration area or at other sites within the urban and village confines.

7.2.8 The application site is within Sittingbourne town centre and the Sittingbourne Regeneration Area. The site is surrounded by or in close proximity to a wide range of facilities and services required for day-to-day living, such as retail units, healthcare provision, restaurants, public houses and educational facilities. It is within a short walking distance to the railway and a number of bus routes. As such, the site is highly sustainable.

7.2.9 Having established the sustainability of the site, as the proposal would lead to the loss of 1,124sqm of office space, it is important to consider the impact of the proposed development upon office provision within the Borough. In this regard, Swale Borough's economy is characterised by a need for industrial and light industrial uses, whereas there is a shortfall of office needs with the historical lack of demand for larger office premises in town boundaries or within its edge, as set out in the supporting text to policy Regen 1 at paragraph 6.7.24 of the Swale Local Plan 2017.

7.2.10 The proposed development would adhere to many of the above-identified policy objectives and bring more additional occupation within the core of the town centre, thus encouraging future occupiers to use those facilities and contributing positively to the viability and vibrancy of Sittingbourne town centre. Equally, the retention of ground-floor commercial premises will continue to have a positive impact on the viability of the primary shopping frontage and commercial activities within the centre.

### 7.3 Size and Type of Housing

7.3.1 The NPPF recognises that to create sustainable, inclusive, and diverse communities, a mix of housing types, which is based on demographic trends, market trends and the needs of different groups, should be provided.

7.3.2 The Local Plan policy CP3 requires the mix of tenures and sizes of homes provided in any particular development to reflect local needs. The Local Plan requires developments to achieve a mix of housing types, which reflects that of the Strategic Housing Market Assessment (SHMA). The table below sets out the Local Plan requirements (as a starting point) for the housing mix, including affordable and market housing.

Tenure – Local Plan	1 Bed	2 Bed	3 Bed	4+ Bed
Market Required	7%	36%	42%	15%
Market Proposed	26%	48%	26%	0
Affordable Required	8%	20%	36%	36%
Affordable Proposed	67%	33%	0	0

7.3.3 The Council's Housing Market Assessment (HMA) was prepared in 2020 (i.e., more recently than the Local Plan) after the introduction of the standard method for calculating the objectively assessed need. As such, officers have considered the proposed housing mix against that set out in the HMA as follows.

Tenure – HMA	1 Bed	2 Bed	3 Bed	4 Bed
Market Required	7%	33%	41%	19%
Market Proposed	26%	48%	26%	0
Affordable Required	27%	23%	30%	20%
Affordable Proposed	67%	33%	0	0

7.3.4 The HMA (2020) broadly echoes the Local Plan requirements in terms of the mix of dwelling sizes. It should be remembered that this reflects the Borough wide need.

7.3.5 In terms of the affordable tenure, advice from the Council's Affordable Housing officer is that given the small-scale size of the scheme and the mix reflect that of market housing proposed, the provision of single and double-bedroom units are acceptable and will meet the localised demand.

7.3.6 In terms of the private housing (market tenure), the proposal would deliver a greater proportion of 1 and 2-bed dwellings and fewer 3 and 4-bed dwellings than is indicated as being required by the supporting text to Local Plan Policy CP3 or the HMA (2020).

7.3.7 Again, it is noted that the mix of dwellings set out in the HMA and Policy CP3 is borough-wide and does not take account of localised differences in market housing need. To account for localised differences, local housing market areas that relate to specific postcode evidence have been established. For Sittingbourne, the supporting text to Local Plan Policy CP3 states that the objective is to provide a mix of housing types and unit sizes.

7.3.8 Given the site's highly urban location with a lack of gardens, the smaller units, as proposed, are appropriate to their context, and as a result the proposed housing mix broadly complies with Local Plan Policy CP3.

## 7.4 Affordable Housing

7.4.2 The NPPF sets out the requirement for setting appropriate, affordable housing levels for new development based on up-to-date evidence. Through Policy DM8, the Local Plan requires 10% of affordable housing from developments in Sittingbourne.

7.4.3 The affordable housing proposed as part of the development equates to 14% of the dwellings. The following mix of affordable housing units are incorporated within the scheme:

- 1 x two-bedroom flat
- 2 x one-bedroom flats

7.4.4 Given the small scale of the proposed development and the town centre location, the smaller units are considered to be appropriate and reflective of the housing mix proposed

for market units. Due to the lack of interest of registered providers in managing a small number of units, as reported by the SBC Affordable Officer, the proposed affordable housing would be delivered as First Homes, with a cost capped at £250,000. This tenure type has been endorsed by the SBC Affordable Housing Officer, and will be secured via a Section 106 agreement.

7.4.5 All of the affordable house types will be compliant with the Nationally Described Space Standards and meet the requirements of Part M4(2) of the Building Regulations, and this can be reasonably secured via safeguarding conditions.

7.4.6 In terms of the design of affordable flats, the proposed affordable homes are indistinguishable from the houses proposed in the private tenure.

7.4.7 In view of the above, the proposals for affordable housing accord with policies DM8 and CP3 of the Local Plan.

## **7.5 Heritage**

7.5.2 The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.

7.5.3 Local Plan Policy CP8 sets out various requirements proposals must accord with to sustain and enhance the significance of Swale's designated heritage assets. The policy states that development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and special identity.

7.5.4 Policy DM32 of the Local Plan relates to development involving listed buildings and states that development proposals affecting a listed building, or its setting will be permitted provided that the building's special architectural or historic interest, and its setting and any features of special architectural or historic interest which it possesses, are preserved.

7.5.5 Policy DM33 of the Local Plan states that development affecting the conservation area (or its setting) shall preserve or enhance all features that contribute positively to the character or appearance of the area. The Borough expects proposals to:

- Respond positively to conservation area appraisals;
- Pay special attention to the use of detail, materials, surfaces, landforms, vegetation and land use;
- Remove features that detract from the character and reinstate those that would enhance it;
- Retain unlisted buildings that make or could make a positive contribution

7.5.6 In assessing heritage impacts, the first step is for the decision-maker to consider each of the designated heritage assets which would be affected by the proposed

development in turn and assess whether the proposed development would result in any harm to the significance of such an asset.

7.5.7 The NPPF makes it clear that a heritage asset's setting is the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to an asset's significance, may affect the ability to appreciate that significance, or may be neutral.

7.5.8 The site lies within the Sittingbourne Conservation Area and within the setting of several listed buildings. The following heritage assets have been identified as being potentially impacted by the proposal:

- Sittingbourne Conservation Area,
- Grade II listed buildings to the south of the High Street, including 79-81 High Street (Barclays Bank), Brenchley House (75-77 High Street), 71 High Street, Bull Hotel, and 67 High Street.
- Grade II listed buildings to the north of the High Street including 42-60 High Street
- Grade II listed building to the west of the application site: 93 High Street.

7.5.9 Whilst the site is sensitively located near listed buildings and within the historic core of the town centre, the design pursued is a sensitive response which relates in scale, size and architectural treatment to the existing building. At the roof level, the extension incorporates significant setbacks to ensure that the adjacent listed building is not overpowered or dominated. The three-storey extension is proportionate to the host building relating directly to its scale, design and materiality. The building itself will be enhanced through cleaning and fenestration changes, which will improve its overall appearance within the streetscape, thus having a minimal positive impact on the character and appearance of the conservation area.

7.5.10 The proposal, therefore, appropriately responds to the characteristics of the host building and is mindful of its broader visual impact. Accordingly, the proposal would preserve the character and appearance of the conservation area and would not adversely affect the setting of listed buildings, having special regard to the desirability of preserving the setting of those listed buildings. SBC Heritage Team raised no objection to the proposed development, subject to elevational treatment to the existing building being secured. The improvement works to the existing building will be secured via a safeguarding condition (replacement windows and elevation cleaning).

7.5.11 Given the sensitive design of the scheme pursued, together with the improvements to the existing building, it is concluded that the proposal will preserve the character and appearance of the conservation area and preserve the setting of listed building, thus complying with policies CP8, DM14, DM32 of the Swale Local Plan 2017 and the NPPF.

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



## **7.6 Archaeology**

7.6.1 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.

7.6.2 Policy DM34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ; however, where this is not justified, suitable mitigation must be achieved.

7.6.3 The application site is within the built-up area and primarily covered by buildings, but it falls within an area of Archaeological Potential. The property lies immediately south of the main London-to-coast Roman Road and in the historic town area of Sittingbourne. Historic maps show the property to be on the site of the former town hall and corn exchange. Given this archaeological potential, further archaeological evaluation is considered necessary. KCC Archaeology recommended that archaeological evaluation with allowance for further mitigation should significant archaeology be identified and secured via safeguarding conditions.

7.6.4 As such, subject to safeguarding conditions being imposed, the proposed development would have an acceptable impact on archaeology, in line with policy DM34 of the Local Plan.

## **7.7 Character and appearance**

7.7.1 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 through policy CP4.

7.7.2 Policy DM14 sets out general development criteria, requiring, amongst other elements, developments to be well-sited and the scale, design and appearance to be sympathetic and appropriate to the location. Policy DM16 supports extensions and alterations to existing buildings provided they are of an appropriate design that responds positively to the style and character of the building, is appropriately scaled, and maintains or enhances the character of the street scene.

7.7.3 The site sits within a highly urban context on a busy high street. The townscape in the vicinity of the application site is varied in scale and architectural style. The site forms part of this townscape, sits within the Sittingbourne Conservation Area and is close to a number of listed buildings, as discussed above. On its own, the building subject to this application has no positive contribution to the character and appearance of the conservation area.

7.7.4 The application building, currently three stories high and constructed of concrete, dates back to the 20th century and occupies a prominent corner location at the junction of High Street and Central Avenue.

7.7.5 The proposed roof extension would provide for an additional storey within the building. The proposed step back by 8 metres from the High Street frontage would

considerably reduce the prominence of the extensions and be an appropriate form of development that responds to the site's capacity for growth within policy constraints and in line with the objectives of the Sittingbourne Town Centre Supplementary Planning Document.

7.7.6 The proposed architectural features are informed and influenced by the existing design, with the three-storey rear extension simply following the scale, architectural language, and materials of the existing building. The roof extension's appropriate scale and significant setbacks would ensure that it would appear visually subservient to the host building and help to reduce its presence within the townscape. This would be supported by the use of appropriate materials and fenestration patterns. Overall, the development proposed would result in minor enhancements of the existing building in that the existing windows would be replaced with modern windows, and the overall development would maintain the character of the site and the building. This conclusion was concurred with by the SBC Urban Design Officer, who raised no objections to the proposed scheme.

7.7.7 Subject to safeguarding conditions, relating to materials and window samples, the proposed development is considered appropriate to its context and complies with policies CP4, DM14 and DM16 of the Local Plan 2017 and NPPF.

## **7.8 Ecology**

7.8.1 The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

7.8.2 The application has been the subject of an Appropriate Assessment (AA) under the Habitats Regulations. The AA concluded that there is a potential risk of harm to the European-designated sites at the Swale and Medway Estuary SPA and Ramsar Site as a result of increased recreational pressure. The impacts were assessed for this development and for this development in combination with other planned developments. The AA, which was prepared in consultation with Natural England, concludes that these impacts can be mitigated through financial mitigation. The applicant agreed to pay this, and the mitigation will be secured in s.106 agreement. An AA was adopted on this basis.

7.8.3 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 furthering the general biodiversity objective of conserving and enhancing biodiversity in England. Furthermore, the National Planning Policy Framework states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible'. The National Planning Policy Framework states that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.'

7.8.4 National planning policy aims to conserve and enhance biodiversity, and encourages opportunities to incorporate biodiversity in and around developments.

7.8.5 In terms of the Local Plan, policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

7.8.6 The application site comprises the existing building and hardstanding. There are no ecological habitats that would be disturbed as a result of the proposed development. KCC Ecology reviewed the application and advised that given that the existing building has no signs of ecological features and is surrounded by hardstanding, the proposed development has limited potential to result in any significant ecological impacts. Subject to safeguarding conditions securing ecological enhancements, as required by paragraphs 180 and 186 of the NPPF, KCC Ecology raised no objections to the proposed development.

7.8.7 In view of the above, subject to safeguarding conditions, it can be reasonably concluded that the proposed development would enhance biodiversity and be acceptable on ecology grounds, in line with policies CP7 and DM28 of the Local Plan and the NPPF.

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

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

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

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

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

7.8.12 However, in view of the scale of the development it is considered that in itself and in combination with other development, it would not have an adverse effect on the integrity of the SPA, subject to appropriate mitigation measures.

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

7.8.14 Due to the scale and location of the development it is not considered that there is scope to provide on-site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats. Based on the correspondence with Natural England, I conclude that off-site mitigation is required.

7.8.15 In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures can be implemented within the SPA from collection of the standard SAMMS tariff totalling £7221.94 (secured via s.106 agreement), which will ensure that these impacts will not be significant or long-term. I therefore consider that any adverse effect on the integrity of the SPA can be satisfactorily addressed through mitigation measures. The AA is adopted on this basis.

## 7.9 Transport and Highways

7.9.1 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver 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.”*

7.9.2 The NPPF also states that:

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

7.9.3 Local Plan policies CP2 and DM6 promote sustainable transport through utilising good design principles. Policy DM6 sets out that proposals will need to mitigate harm where highway capacity is exceeded and/ or safety standards are compromised. Policy DM7 sets out that the requirements of the Swale Parking SPD will be applied to proposals.

7.9.4 The proposed development would use the existing access point at the rear of the site (accessed from Central Avenue), which is an acceptable arrangement.

7.9.5 In terms of the site location, the site is within the core of Sittingbourne Town Centre and has the availability of sustainable transport modes and day-to-day facilities. In this location, the advisory parking standard for 1/2/3 bedroom flats is one parking space per unit. However, the site benefits from an established office use with the existing office floorspace generating the need for 50 parking spaces. The proposed residential use would generate the need for 22 parking spaces, which is significantly less than the established use. The Parking Standards SPD also sets out that where parking standards are advisory that a

reduced provision can be justified. In this case, due to the highly sustainable nature of the site, this means that the minimum car parking provision (4 bays for residential use) is acceptable and complies with the Council's Parking SPD and policy DM7 of the Local Plan.

7.9.6 KCC Highways' initial response commented that the applicant proposes arranging the refuse collection from within the site. The Applicant clarifies that while the storage will be within the site, the bins will be moved outside of the site on the day of the collection. This is considered acceptable by the SBC Waste and Recycling Team, who raised no objections to this arrangement. The retention of refuse storage will be secured via the safeguarding condition. The cycle storage details were updated on the proposed block plan drawing and show that 24 secure and safe cycle spaces will be incorporated in the development. A safeguarding condition will be imposed on the decision to ensure that these spaces are provided within the site, and as such this complies with KCC Highway requests and the requirements of the Council's Parking SPD.

7.9.7 In view of the above, and subject to safeguarding conditions requiring the provision of details for cycle storage and bins storage, the proposed development would have an acceptable impact on highways safety and amenity and complies with policies CP2, DM6 and DM7 of the Swale Local Plan 2017 and the NPPF.

## 7.10 Air Quality

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

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

7.10.3 The Planning Practice Guidance on Air Quality states that

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

7.10.4 The Local Plan at Policy DM6 sets out that development proposals will integrate air quality management and environmental quality into the location, design, and access to development and demonstrate that proposals do not worsen air quality to an unacceptable degree.

7.10.5 The proposed development is a major development but outside of any AQMA. The applicant has undertaken an Air Quality Assessment in support of this proposal. SBC Environmental Protection Team has reviewed it and concluded that there are no adverse impacts on air quality, either alone or in combination.

7.10.6 In accordance with Swale Air Quality Guidance, standard mitigation in the form of EV charging points (4 x electric vehicle charging points are proposed) and low NOx boilers (NOx-free boilers are proposed) are required and will be secured via safeguarding conditions. Subject to safeguarding conditions, the proposed development is considered acceptable and would not worsen the air quality, which is in line with requirements of policy DM6 of the Swale Local Plan 2017 and NPPF.

## 7.11 Community Infrastructure

7.11.1 The National Planning Policy Framework attaches importance to ensuring that a sufficient choice of school places are available to meet the needs of existing and new communities. This is reflected in Policies CP5 and CP6 of the Local Plan, which set out that provision shall be made to accommodate local community services, social care and health facilities within new developments.

7.11.2 As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is:

- Necessary
- Related to the development
- Reasonably related in scale and kind

7.11.3 The following outline the financial contributions that have been sought by Kent County Council and Swale Borough Council to mitigate the impact of the development upon services, these contributions are all for specific capital projects which have been identified and assessed by Officers to comply with the Regulations (as amended).

7.11.4 Kent County Council, in its capacity, has identified that the proposed development will generate additional pressure on existing community facilities, including schools. The following mitigation has been requested:-

Type of infrastructure	Cost	Project
Secondary Education	£25,142.40	Towards a new secondary school in Northwest Sittingbourne (Local Plan Policy MU1) <b>and/or</b> a new secondary school in Sittingbourne nonselective and Sittingbourne & Sheppey selective planning group areas.
Special Education Needs & Disabilities (SEND)	£2,519.28	SEND contribution to be applied towards additional places in the Swale district.
Community Learning and Skills (Adults)	£752.62	Additional equipment and resources for adult education centres serving

		the development, including outreach provision.
Integrated Children's Services	£1,332.90	Additional equipment and resources for the Integrated Children's Services in Sittingbourne, including outreach provision, are needed.
Libraries, Registrations and Archives Service	£1,377.86	Towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including Sittingbourne.
Adult Social Care	£3,979.36	Towards Specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting Community facilities, sensory facilities, and Changing Places within Swale
Waste	£4,270.86	Towards additional capacity at Sittingbourne HWRC & WTS.
All homes to be built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part <b>M 4 (2)</b>		
All to be index-linked by the All-In Tender Price Index from Q1 2022 to the date of payment.		

7.11.5 The application has been assessed in accordance with the KCC Development Contributions Guide, and inevitably, given the increased population as a result of additional dwellings, the proposed development will put pressure on existing community facilities. The above contributions and identified projects are considered to be compliant with Regulation 122 of the Community Infrastructure Regulations (as amended) and are necessary to make the development acceptable in planning terms to provide sufficient community infrastructure to serve additional populations. The applicant has agreed to pay those contributions in total.

7.11.6 In terms of the impact upon healthcare, the proposal will generate approximately 45 new patient registrations in general practice, as estimated by the NHS based on the dwelling mix proposed. The proposed development falls within the current practice boundaries of Memorial Medical Centre, Green Porch Medical Partnership and The Meads Medical Practice, where there is limited capacity to accommodate growth. The financial contributions will allow that growth to be accommodated and mitigate the pressure arising from the proposed development. The Applicant agreed to secure contributions via a s.106 agreement and pay them prior to the 1<sup>st</sup> occupation. This will be incorporated and secured into a s.106 agreement.

7.11.7 Subject to all necessary contributions being secured in a s.106 agreement, the proposed development would mitigate its pressure upon existing services and is in accordance with policies CP5 and CP6 of the Local Plan 2017, and NPPF.

## 7.12 Open Space

7.12.1 Local Plan Policy CP7 requires developments to promote the expansion of Swale's natural assets and green infrastructure. Policy DM17 of the Local Plan sets out that new housing development should make provision for appropriate outdoor recreation and play space proportionate to the likely number of people who will live there. This space should be fully accessible all year round.

7.12.2 The application site is located within a highly urban, tight-knit context and given its limited area, the plot of land would not lend itself to the provision of useable and meaningful on-site open space for all proposed units. It is noted that the third-floor flats would be served by balconies and this is considered appropriate. Consequently, the applicant has been requested to provide financial contributions to mitigate the pressure arising from this application and contribute towards off-site improvements to open spaces within Sittingbourne. SBC Greenspaces Officer identified that financial contributions could be directed toward off-site open space improvements at Sittingbourne Recreation Ground (500 metres from the site) for increasing the capacity of the play area and sports pitches through improvements to the existing provision. The request is considered to be compliant with the relevant Regulations and in accordance with the open space strategy, the following amounts were requested:-

- £713.17 per dwelling for increasing formal sport provision;
- £536.39 per dwelling toward increasing play and fitness provision;

7.12.3 The Applicant has agreed to pay the requested mitigation in full, with the first 50% payable upon commencement of the development and a reminder of the mitigation payable upon occupation of the 10th flat. This will be secured in the s.106 agreement.

7.12.4 In view of the off-site mitigation towards open space improvements, the development is considered to mitigate the impact in this regard and comply with policy DM17 of the Swale Local Plan 2017 and NPPF.

## 7.13 Flood Risk, Drainage and Surface Water

7.13.1 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.

7.13.2 Part 4 of Local Plan Policy DM21 states that development should include where possible, sustainable drainage systems (SuDS) to restrict runoff to an appropriate discharge rate, maintain or improve the quality of the receiving watercourse, to enhance biodiversity and amenity and increase the potential for grey water recycling.

7.13.3 The application is in Flood Zone 1 and at low risk of flooding. The Environment Agency has concurred with this, identifying the site as at low risk of flooding and raising no objections.

7.13.4 In terms of the drainage strategy for surface water disposal, the site is adjacent to the surface water sewer. It is proposed that the scheme creates a new connection to the



existing drainage network. The surface water will be disposed of by a green roof system, wall-mounted rainwater harvesting units, an attenuation tank (underground) and a control mechanism limiting the final rate of discharge from the site to 0.5l/s. This strategy has been endorsed by the KCC Lead Flood Authority, who raised no objections to the proposed development, subject to further detailed design being secured via safeguarding conditions. It is noted that the above arrangement will require an application under Section 106 of the Water Industry Act to Southern Water directly to allow a connection point. Southern Water has not objected to this and recommended an informative for the submission of further surface and foul water details to Local Planning Authority for approval. The surface water details are already secured via safeguarding condition as mentioned above, whereas the foul water connection is subject to a separate consenting regime under legislation which sits outside the planning process.

7.13.5 In view of the above and subject to safeguarding conditions requiring detailed design of the drainage strategy for this site and a verification report, the proposed development will not increase the risk of flooding within or outside of the site and complies with policy DM21 of the Swale Local Plan 2017 and NPPF.

## **7.14 Contamination**

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

7.14.2 The site is covered by an existing building with its rear part used as a car park. No objection or concerns have been raised by the Environmental Protection Team or Environment Agency to this application in relation to contamination. Given this, the risk of contamination is unlikely the proposed development complies with paragraph 189 of the NPPF.

## **7.15 Living Conditions**

### *Existing residents*

7.15.1 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Specifically, policy DM 14 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 DM 16 also requires that alterations or extensions to existing buildings protect residential amenity

7.15.2 The surrounding environment and buildings are mostly commercial in character. The proposed residential development would provide numerous openings to the rear of the buildings at 75 – 81 High Street. However, the proposed windows would not overlook any private amenity space, as the surrounding land to the rear is mainly used as service yards/parking courts. The closest residential properties would be flats at 70-75 High Street. Given the sufficient separation distance of a minimum of 20 metres, with the intervening space being a road or existing buildings, the proposed development would not result in any adverse overlooking, overbearing, loss of privacy, overshadowing or enclosing effects.

Given that, in totality, the number of parking spaces would be similar, any additional noise levels associated with comings and goings would be negligible.

#### *Future residents*

7.15.3 Policy DM14 of the Local Plan provides general development criteria and requires that development does not result in significant harm to amenity (including that of future occupiers of development).

7.15.4 New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government's minimum internal space standards for new dwellings.

7.15.5 The proposed flats would adhere to the National Minimum Space Standard and offer a legible, spacious layout. The majority of the proposed flats would have dual-aspect windows. Whilst balconies are not incorporated into each unit, given the town centre location and availability of open space in the surrounding area, this is considered to be acceptable, given land constraints. It is noted that windows to bedroom units 4, 11 and 12 would have an outlook partially obscured by either the roof slope of the adjacent building or the staircase enclosure. Given the tight-knit form of development, and with the roof sloping away from the affected window, it is considered that there will be sufficient outlook from those windows and this relationship is on balance acceptable. In conclusion, the quality of accommodation for future occupiers is considered satisfactory.

7.15.6 Noise has been raised as a matter of concern during the consultation process on this application, given the surrounding commercial uses, including a nightclub to the north of the site. The application is accompanied by the Noise Impact Assessment. This concluded that with adequate insulation, the noise levels within the proposed units would meet all the criteria and be acceptable to future occupiers. The Noise Impact Assessment identified that there may be occasions where the noise levels peak above the average and in those circumstances, with the windows shut, the noise levels would comply with the standards. Given that this impact would be limited to very short periods of time, the future occupiers will not need to keep their windows shut continuously to benefit from a good quality living environment. As such, with additional mitigation in the form of insulation, improved glazing, mechanical ventilation and a noise barrier screen, the proposed dwellings will have an acceptable sound level that will not result in any harmful impact on the living standards of future occupiers. Relevant conditions have been included to ensure that the required mitigation is installed.

7.15.7 In conclusion, in relation to living conditions of existing and future residents the application complies with Local Plan Policy DM14.

## **7.16 Sustainability / Energy**

7.16.1 Policy DM19 of the Local Plan requires development proposals to include measures to address climate change. Additionally in 2020 the Council adopted a Climate and Ecological Emergency Action Plan, which requires housing development to reduce carbon emissions by 50% compared to the Building Regulations Part L1 2013.

7.16.2 The application is accompanied by an Energy Statement. This demonstrates that energy efficiency and reduction in CO<sub>2</sub> over the Building Regulations will be achieved

resulting in total savings at 62.55%. This will be achieved through the incorporation of the following measures:-

- High level of insulation,
- LED lighting,
- Installation of mechanical ventilation system with heat recovery
- Hot water heat pump
- New electric boilers
- Installation of double-glazed windows

7.16.3 The Energy Statement submitted with the application also confirms that the development, through the installation of water-efficient features, will be designed to reduce water usage to less than 110 litres per person per day, as required by policy DM21. Electric Vehicle charging provision will be secured via safeguarding conditions, as discussed in the air quality section of the report. SBC Climate Change Officer raised no objections to the proposed sustainability measures.

7.16.4 In summary, the proposed development includes adequate measures to address climate change and complies with Local Plan Policy DM19 and DM21.

## **7.17 Other matters**

7.17.1 The site is not covered by any trees and will not result in any harmful impact on the surrounding trees.

7.17.2 The application was submitted before the 10% BNG requirements came into place, so a 10% uplift is not necessary.

7.17.3 The Applicant confirmed the building is separated from the sub-station by more than 7 metres, which is sufficient distance to ensure no impact.

## **7.18 Conclusion**

7.18.1 The Council is unable to demonstrate a 5-year housing land supply. This means that development should be approved unless the adverse impacts outweigh the benefits in a demonstrable and significant way. The above assessment demonstrates that the scheme would comply with the Swale Local Plan 2017 and NPPF. The proposal would result in the loss of employment floorspace. However, this is currently vacant and in a sector where the evidence demonstrates that there is a lack of demand in this location. The scheme would moderately contribute to the housing supply figures, deliver three affordable units and create housing in a highly sustainable location and generate more footfall within the town centre. There are no objections from statutory consultees and for these reasons it is recommended that planning permission is granted subject to safeguarding conditions and s.106 agreement securing all planning obligations as set out in the report.

## **CONDITIONS**

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

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

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

- Revised Proposed First and Second Floor Plan, ref. 2666/11 rev. F, Sept 23
- Revised Proposed Third Floor Plan & Roof Plan, ref. 2666/12 rev. C, Sept 23,
- Proposed Elevations, 2667/13 rev. D, Sept 23
- Proposed Sections, 2667/15 rev. A, Nov 23
- Proposed Block Plan, 2666/10 rev. C, September 2024
- Energy Statement (NRG Consulting, November 2023)
- Drainage Strategy (SuDS Report, ref. C3238-R1-REV-A, Nimbus Engineering Consultants)
- Noise Impact Assessment (DAA Group, Issue 01, 20<sup>th</sup> October 2023)
- Transport Statement (GTA, ref. 12768, November 2023)
- Construction Management Plan (NRG Consulting November 2023)
- Air Quality Assessment (NRG Consulting, November 2023)

Reason: In the interest of proper planning.

3. The development hereby approved shall be constructed in accordance with the sustainability measures as set out in the Energy Statement (NRG Consulting, November 2023) prior to the first use of any dwelling.

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

4. No development beyond the construction of foundations shall take place until details and samples of all the external finishing materials (including details of replacement windows to the existing building) to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

5. No flat hereby approved shall be occupied until the exterior of the building has been cleaned, fully in accordance with a scheme of cleaning that shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that there is a minimal contrast between the new and existing concrete facades of the building, in the interests of visual amenity and to preserve the character and appearance of the conservation area.

6. To assess and mitigate the impacts of development on significant archaeological remains:

A) No development works shall commence until the applicant (or their agents or successors in title) have secured 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 (B), investigation and recording shall be carried out in accordance with the agreed specification and timetable.

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.

7. Within six 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.

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.

8. Prior to the first occupation of any unit hereby permitted, details of a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through durable integrated methods into the design and appearance of the building and extension by means such as swift bricks, bat tubes or bee bricks and an implementation timetable.

The development shall be implemented in accordance with the approved details, and all features shall be maintained thereafter.

Reason: To ensure biodiversity net gain.

9. Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority.

The detailed drainage scheme shall be based upon the SuDS Report ref: C3238-R1-REV-A and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of at a rate of 0.5l/s without increase to flood risk on or off-site.

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

- That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.
- The elevation drawings showing detailed design and location of wall-mounted rainwater harvesting units (to be installed within the rear elevation of the building if feasible)
- The detailed design and extent of green roofs

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

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

10. No unit hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system, and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority.

The Verification 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.

11. No dwelling shall be occupied until a post completion noise survey has been undertaken by a suitably qualified acoustic consultant, and a report submitted to and approved in writing by the Local Planning Authority. The post-completion testing shall assess the performance of the noise mitigation measures, implemented in accordance with the 'Noise Impact Assessment' by DAA Group dated 20th October 2023.

If the noise levels set out in the report are exceeded, additional noise mitigation measures to ensure the appropriate noise levels can be met shall be submitted to and approved in writing by the Local Planning Authority and implemented in full prior to the first occupation within any dwelling hereby approved.

The final approved noise mitigation scheme shall be implemented and maintained in accordance with the approved plans.

The post-completion noise survey shall assess the performance of any ventilation and cooling/heating system that has been installed to the satisfaction of the local planning authority. The approved alternative means of ventilation and cooling/heating shall be maintained thereafter.

Reason: In the interest of the amenity of future occupiers.

12. No external lighting shall be installed until a detailed scheme of lighting has been submitted to, and approved in writing by the Local Planning Authority.

This scheme shall take note of and refer to the Institute of ILP Guidance Note 01/21 The Reduction Of Obtrusive Light (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill.

The lighting scheme shall be installed, maintained, and operated in accordance with the approved scheme.

Reason: In the interests of neighbouring and visual amenity.

13. The bin storage facilities, as shown on drawing 2666/10 rev. C, shall be installed and provided in full prior to the first occupation of the flats hereby approved. The refuse storage facilities shall be retained thereafter as approved.

Reason: In the interests of protecting amenities.

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

Monday to Friday 0730 – 1900 hours,

Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

15. No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:-

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

Reason: In the interests of residential amenity.

16. No development beyond the construction of foundations shall take place until the applicant has submitted details of what measures will be implemented to design out crime.

Reason: In the interest of amenities of future occupiers, ensuring safe spaces and discouraging anti-social behaviour.

17. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include means of enclosure, details of green roof, hard surfacing materials, and an implementation programme.

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

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

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

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

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

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

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



21. The 4 EV charging points as shown on the submitted plan (drawing number 2666/10 rev C), shall be installed prior to the first occupation within site commencing.

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

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

Reason: In the interests of highways safety and to encourage sustainability

22. The cycle parking facilities to accommodate a minimum of 24 cycle spaces (in accordance with the Transport Statement and drawings 2666/10 rev. C, BEXB-5000-1.001, Cycle Shelter Specification Sheet received on 27<sup>th</sup> September 2024), shall be installed prior to the first residential occupation within the site commencing. The cycle spaces shall be maintained and made available to residents thereafter.

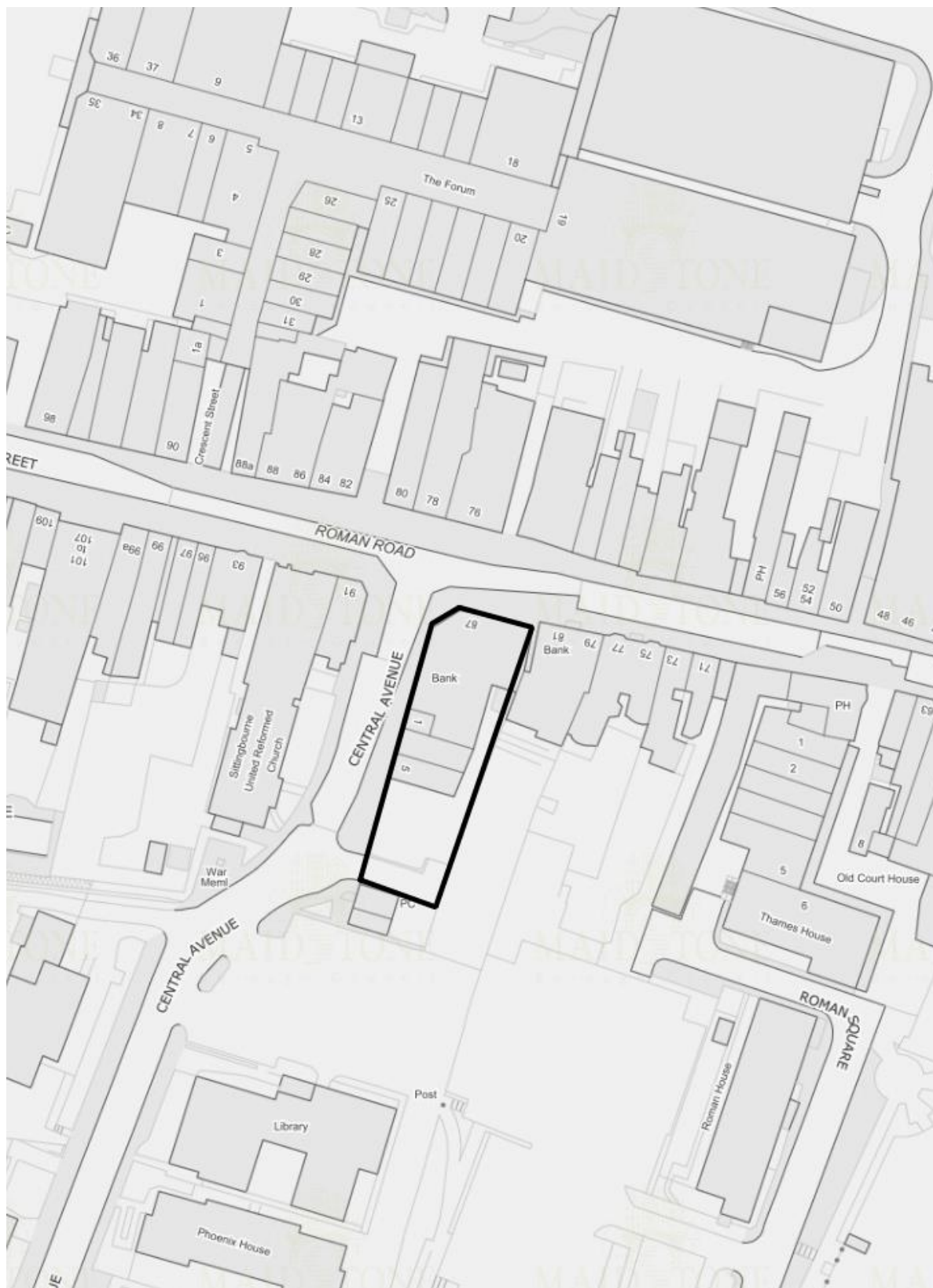
Reason: In the interests of highways safety

23. The development shall be carried out in accordance with the Construction Management Plan (NRG Consulting, November 2023).

Reason: In the interests of amenities and highway safety.

24. All dwellings shall be constructed to accord with part M4(2) of the Building Regulations.

Reason: To ensure a high standard of homes for future occupiers.



<b>2.2 REFERENCE NO - 22/502692/FULL</b>		
<b>PROPOSAL</b> Section 73 - Application for minor material amendment to approved plans condition 2 (to allow an increase in size and relocation of the building within the site) pursuant to 19/500224/FULL for - Erection of a single storey storage building.		
<b>SITE LOCATION</b> Land North of Perry Leigh Grove Road Selling Kent ME13 9RN		
<b>RECOMMENDATION</b> 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.		
<b>APPLICATION TYPE</b> Large Major Other		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council Objection		
<b>Case Officer</b> Alice Reeves		
<b>WARD</b> Boughton and Courtenay	<b>PARISH/TOWN COUNCIL</b> Selling	<b>APPLICANT</b> Mr Brian Macey  <b>AGENT</b> VLH Associates
<b>DATE REGISTERED</b> 22.07.2022	<b>TARGET DATE</b> 17.10.2022	
<b>BACKGROUND PAPERS AND INFORMATION:</b> <b>Documents referenced in report are as follows: -</b>  All drawings submitted All representations received  The full suite of documents submitted pursuant to the above application are available via the link below: -  <b>INCLUDE WEB LINK</b> <a href="https://pa.midkent.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://pa.midkent.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a>		

## 1. SITE LOCATION AND DESCRIPTION

- 1.1 The site is a large field within the Kent Downs Area of Outstanding Natural Beauty (AONB), which is now known as the Kent Downs National Landscape, although references in local and national policy continue to refer to AONB. The field has been divided into smaller enclosures for the keeping and grazing of horses. Within the field are a total of 17 steel containers and an established small timber stable building.

- 1.2 There are wooden pallets stacked on the site close to the site entrance, a Lawful Development Certificate for the use of a small part of the land for storage of these pallets was granted under reference 16/502524/LDCEX.

## 2. PLANNING HISTORY

- 2.1 23/504318/LDCEX - Lawful Development Certificate (Existing) to establish lawful commencement of planning permission of 19/500224/FULL for erection of a single storey storage building. Appeal against non-determination allowed on 9.05.2024 and a certificate of lawfulness, confirming that works undertaken on the site have led to the implementation of planning permission Ref. 19/500224/FULL, was issued.
- 2.2 21/500428/CHANGE - Appeal against Enforcement Notice: *Without planning permission the material change of use of the Land from the keeping and grazing of horses to a mixed use of the Land for the keeping and grazing of horses and the stationing of storage containers.* The Enforcement Notice was quashed on 09.05.2024.
- 2.3 19/500224/FULL – Planning permission granted on 30.04.2019 for *Erection of a single storey storage building.*
- 2.4 19/503507/LDCEX - Lawful Development Certificate (Existing) refused on 07.05.2021 for a *mixed-use comprising of storage and equestrian, including use of existing building for stabling and storage, and outside storage of containers.*
- 2.5 17/504527/FULL - Retrospective planning application refused on 16.11.2017 for the *use of land for storing 15 storage containers.* An appeal was lodged against this decision and dismissed on 12.12.2018.
- 2.6 16/502524/LDCEX - Lawful Development Certificate (Existing) approved on 09.03.2017 for *use of land for storage of pallets.*
- 2.7 As set out above the site has a fairly complex planning history attached to it. It is considered useful for Members to have further knowledge of the above, which is set out as follows:

In 2017, a retrospective planning application for the use of land for storing 15 storage containers was refused by the Council (ref. 17/504527/FULL) and dismissed at appeal. The decision notice issued by the Council was accompanied by the following informatives;

- (1) *The applicant is encouraged to explore the possibility of replacing the containers with a small, well-designed agricultural building, and to seek pre-application advice regarding same from the Local Planning Authority.*
- (2) *The Council's decision means that the containers continue to represent unauthorised development and the applicant is urged to remove the containers*

*from the site without delay. The Council will not hesitate to take formal enforcement action if the containers are still in place after the end of December 2017.*

- 2.8 In dismissing the appeal the Inspector found the containers incongruous within the AONB, and he saw no reason why the contents could not be housed in a building of more sympathetic design.
- 2.9 Following the above, a planning application for a storage building (ref. 19/500224/FULL) which would house a number of storage containers in the north east corner of the site was submitted to the Council shortly after the appeal and was approved with conditions that no storage containers which are not housed inside the building should remain on site once the building was completed. Whilst excavations for the concrete pad have taken place, no other works have been undertaken to erect the storage building. When assessing the current application, the foundations that had been dug were unable to be located on an unaccompanied site visit. The applicant then submitted an application seeking a lawful development certificate (ref. 23/504318/LDCEX) to confirm that the application approved under ref. 19/500224/FULL had been implemented by virtue of the works described above. The applicant appealed against the non-determination of 23/504318/LDCEX shortly after the site visit.
- 2.10 An enforcement notice was served requiring the removal of the containers and an appeal was lodged with the Planning Inspectorate. The Inspectorate determined that the appeal should be dealt with by means of a Public Inquiry and this took place on 12th March 2024. The appeal relating to the application under 23/504318/LDCEX was assessed by the same Inspector and the site visits for both appeals were carried out at the same time. The Inspector allowed the existing Lawful Development Certificate appeal stating that the foundation dug on the site was in a location consistent with the previously approved application within the relevant time period and the approval had therefore been lawfully commenced. As a result, a Lawful Development Certificate was issued. Separately, the Inspector quashed the Enforcement Notice related to the use of the land and removal of the storage containers. The Inspector did set out that it is open to the Council to serve a further notice which clearly sets out the nature of the breach and the requirements, should it consider it expedient to do so, subject to the provisions of s171B(4) of the Act.

### 3. PROPOSED DEVELOPMENT

- 3.1 This application seeks planning permission to vary condition 2 (approved drawings) pursuant to approved application 19/500224/FULL. These changes include the following:
- Increase the approved building by 4m in length; 1m in depth and 1.1m in height;
  - Increase number of doors from 4 to 10 to allow easier siting and access of the storage containers within the building;

- Removal of approved earth banking around proposed building.

- 3.2 The initial drawings also sought a change in wall covering from timber weatherboarding to metal sheet cladding and metal up and over doors, however, Officers requested this was amended back to timber weatherboarding and timber up and over doors and revised drawings were received on this basis. The roofing material would remain as approved which is metal sheeting.
- 3.3 The storage containers are proposed to be sited within the building to add to the security of the site.

#### 4. CONSULTATION

- 4.1 Two rounds of consultation have been undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2 Three letters of objection from separate addresses were received in relation to the first consultation. Concerns/comments were raised in relation to the following matters: -

<b>Comment</b>	<b>Report reference</b>
The original barn design and location was inconspicuous with traditional materials and colours – timber doors and cladding were to be screened with banks of earth which would provide screening from the footpath;	See paragraph 7.5 – 7.12
Do not consider this a minor amendment;	See paragraph 7.15
The development has not been implemented;	See paragraph 2.10 and 7.4
The design resembles an industrial unit out of keeping with the AONB;	See paragraph 7.5 – 7.12
Ten shipping containers are in excess of even generous agricultural requirements;	See paragraph 7.14
The materials should be amended to reflect a traditional Kent agricultural barn;	See paragraph 7.9
The applicant wishes to operate a commercial storage facility;	See paragraph 7.14
This would not be an improvement to the view of the shipping containers.	See paragraph 7.5 – 7.12
The storage of fuel would be a safety hazard.	See paragraph 7.13

## 4.3 Selling Parish Council objected to the application on the following grounds: -

<b>Comment</b>	<b>Report reference</b>
Almost no work has taken place and as such a new application should be submitted;	See paragraph 2.10 and 7.4
No justification for allowing an increase in size of the building;	See paragraph 7.14
The previous permissions should be revoked as the applicant has not shown any special circumstances, the building does not serve a public interest and should not be built on agricultural land;	See paragraph 2.10 and 7.4
All previous conditions should continue to apply;	See paragraph 7.14 and 7.16
Applicant has shown scant regard to planning rules and hasn't responded positively to assistance given by Swale Borough Council to help mitigate the impact of the storage containers;	See paragraph 2.7 - 2.10
Strongly oppose removal of landscaping as great emphasis was made in 2019 permission on the importance of visual amenity due to location on the edge of the AONB;	See paragraph 7.11
Concerned regarding the storage of fuel;	See paragraph 7.13
Whatever permissions are given for this application it is asked that officers ensure the work is completed within the timescales given and that all conditions are adhered to.	See paragraph 7.14

4.4 Amended drawings were submitted leading to the second round of consultation. Selling Parish Council responded setting out that they continued to object to the application. No further comments were made in addition to those already set out above.

4.5 In response to the second consultation two letters of representation were received from two separate addresses (both of whom had previously commented on the application as set out above). They continued to raise an objection and the following additional concerns/comments were raised in relation to the following matters: -

<b>Comment</b>	<b>Report reference</b>
The amendment is a marginal improvement visually but there will still be an unscreened view of a commercial storage facility;	See paragraph 7.5 – 7.12
Further commercial traffic is undesired and would be detrimental to the safe and desired use of Grove Road which will see the completion of a number of houses	See paragraph 7.14

nearby which is already increasing vehicle numbers.	
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## 5. REPRESENTATIONS

- 5.1 **SBC Heritage:** - No objection
- 5.2 **Mid Kent Environmental Health:** - No objection
- 5.3 **Natural England:** - No comment

## 6. DEVELOPMENT PLAN POLICIES

- 6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 –**  
**ST3** Swale Settlement Strategy  
**ST7** The Faversham area and Kent Downs strategy  
**CP4** Requiring good design  
**DM3** The rural economy  
**DM14** General development criteria  
**DM24** Conserving and enhancing valued landscapes

## 7. ASSESSMENT

- 7.1 This application is reported to the Committee because Selling Parish Council has objected to the proposal. Considering these comments, and the proposal that has been submitted the committee is recommended to carefully consider the following points: -
  - The Principle of Development
  - Character and Appearance
  - Living Conditions

### **Principle**

- 7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart



of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

- 7.4 This application seeks a variation to condition 2 of the planning permission granted under ref. 19/500224/FULL. The relevant section of the Act (Section 73) that this application has been submitted under is very clear in that “On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted”. As a result, the only consideration as part of this application is whether the variations, as set out in the proposal section above are acceptable. As also set out above, via an appeal decision, a lawful development certificate has been issued which confirms that the development approved under ref. 19/500224/FULL has been lawfully implemented. Therefore, the principal of siting a storage building on the site has been accepted and is not able to be further considered.

### **Character and Appearance**

- 7.5 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.
- 7.6 The site is located within the Kent Downs AONB. Policy DM24 of the Local Plan states that planning permission for development within the AONB will only be granted subject to it preserving and enhancing the special qualities and distinctive character of the AONB in accordance with national policy; further the delivery of the AONB management plan; minimising the impact of individual proposals and their cumulative effect on the AONB and its setting, mitigating any detrimental effects, including where appropriate, improving any damaged landscapes relating to the proposal; and being appropriate to the economic, social and environmental wellbeing of the area or being desirable for the understanding and enjoyment of the area. In national policy terms, the NPPF at paragraph 182 states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty which has the highest status of protection in relation to these issues.
- 7.7 Section 85 of the Countryside and Rights of Way Act sets out that: *“In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England (...) must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty”*. It is noted that this element of the Act has been varied since the determination of the previous application where the legislative requirement read *“In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”*
- 7.8 As set out above, the starting point in this case is the implemented planning permission for the storage building approved under ref. 19/500224/FULL and the assessment

centres on whether the proposals as now submitted still meet the requirements of the relevant policies.

- 7.9 The initial submission under this current application sought both an amendment to the size and position of the building but also to the approved materials, seeking permission for metal sheet wall covering and metal up and over doors. Given the sensitive location, it was requested that the agent amended the materials to timber weatherboarding and timber up and over doors and an amendment was received on this basis. It is acknowledged that there are more doors proposed on this building than was previously approved, to better access the storage containers sited within, however, a condition will be included to ensure these are painted black along with the featheredge weatherboarding to the walls, so they do not stand out.
- 7.10 Whilst it is proposed to increase the footprint and height of the building, this is by a limited amount and not to a degree that would give rise to unacceptable additional harm in comparison to the previously approved scheme. Given the location in the north-east corner of the site, the development will not lead to unacceptable visual amenity concerns subject to compliance with the conditions below. Accordingly, the development would comply with policies CP4, DM3, DM14 and DM24 of the Local Plan.
- 7.11 The Parish Council and local residents comments are acknowledged with regards to landscaping and note that the proposed earth bund that was proposed to surround the previously approved building has been removed from these plans. The concerns with regards to a lack of landscaping in this sensitive area within the AONB are shared by Officers and it is considered that landscaping is required to soften the impact of the building. It is also taken into account that earth bunds are not representative of this part of the AONB and as such it is considered that soft landscaping, carefully chosen to reflect the surrounding landscape, would provide the opportunity to integrate this development into the area in a more natural way compared to an earth bund. Furthermore, it would also provide the opportunity for greater biodiversity benefits compared to an earth bund. As a result a condition is recommended requesting details of proposed landscaping to be submitted to and agreed by the Council to ensure that sufficient screening of the building is undertaken.
- 7.12 Overall, it is considered that the amended development remains in accordance with policies DM14 and DM24 of the Local Plan and the NPPF. Moreover, through providing improved soft landscaping rather than a bund, it is considered that a net gain would be achieved in visual terms which would further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty relative to the fallback position.

## **Living Conditions**

### *Existing residents*

- 7.13 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Given the separation distances to the nearest residential properties it is not considered that there would be any loss of privacy, overshadowing or loss of light to neighbouring residents. The comments in relation to the storage of fuel are noted, however, this is not a planning matter and it is not unusual for agricultural storage buildings to store fuel for tractors and associated machinery.

### **Other matters**

- 7.14 Comments have been received that the building will be used as a commercial storage building however, the planning system does not allow decisions to be made on the basis of what uses could or could not take place in the future. In terms of what can be stored in the building, the condition imposed on the planning permission issued under ref. 19/500224/FULL restricted this to storage of machinery, equipment, materials and items related to the use of the application site for agriculture and/or for the keeping of horses. However, as part of the Public Inquiry which was held for the appeal lodged against the Enforcement Notice related to the containers on the site, the Council took the view that the containers were being used for the storage of machinery and materials associated with the paddocks and also the pallet business. As a result, it is recommended that the relevant condition is amended to reflect this. Therefore, if the building was used for other purposes, in breach of this condition, the Council would have the option to consider enforcement action.
- 7.15 Comments have been received that the amendments are not minor. Although there is no definition of ‘minor material amendments’, it is clear in this case that the proposal is not so substantially different that it could not be considered under a S.73 application. The current application is subject to the same publicity requirements as a new planning application and therefore it is not considered that any interested party has been prejudiced.
- 7.16 With regards to conditions, as the previous permission has been implemented there is no requirement to include the standard time limit for implementation. The condition regarding the items stored in the building has been amended for the reasons set out above. The approved drawing condition has been amended to reflect the amended details and all other previous conditions have been included as well as additional conditions regarding landscaping for the reasons outlined previously in the report.

## **Conclusion**

- 7.17 Overall, the proposed building whilst of a slightly larger footprint and overall height, would provide a building in which to store 10 of the existing storage containers which are currently an incongruous addition to the site within the AONB. A condition requiring the removal of the remaining storage containers will ensure that all containers on the site would be held within a black stained timber featheredge boarded building which

would be an improvement to the landscape and something the Council has been trying to work towards for a number of years. Now the materials have been amended to those suitable for buildings within the AONB it is considered that planning permission should be granted.

## **CONDITIONS**

- (1) The development hereby approved shall not be carried out otherwise than in complete accordance with drawings PL0052.18.02.C and PL0052.18.03.B.

Reason: In the interests of visual amenity.

- (2) The building hereby permitted shall be used only for the storage of machinery and materials associated with the paddocks and pallet business.

Reason: In the interests of residential and visual amenity.

- (3) Any containers positioned within the building hereby permitted shall be so positioned that no part of it is visible from outside the building.

Reason: In the interests of visual amenity.

- (4) Any container within the application site that is not re-positioned within the building hereby permitted shall be removed from the site within one calendar month of the substantial completion of the building.

Reason: In the interests of visual amenity.

- (5) All external boarding in the development hereby permitted shall be black stained featheredged timber weatherboarding.

Reason: In the interests of visual amenity.

- (6) The timber up and over doors to be used on the development hereby permitted shall be stained black.

Reason: In the interests of visual amenity.

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

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

- (8) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first use of the building or in accordance with the programme agreed in writing with the Local Planning Authority.

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

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

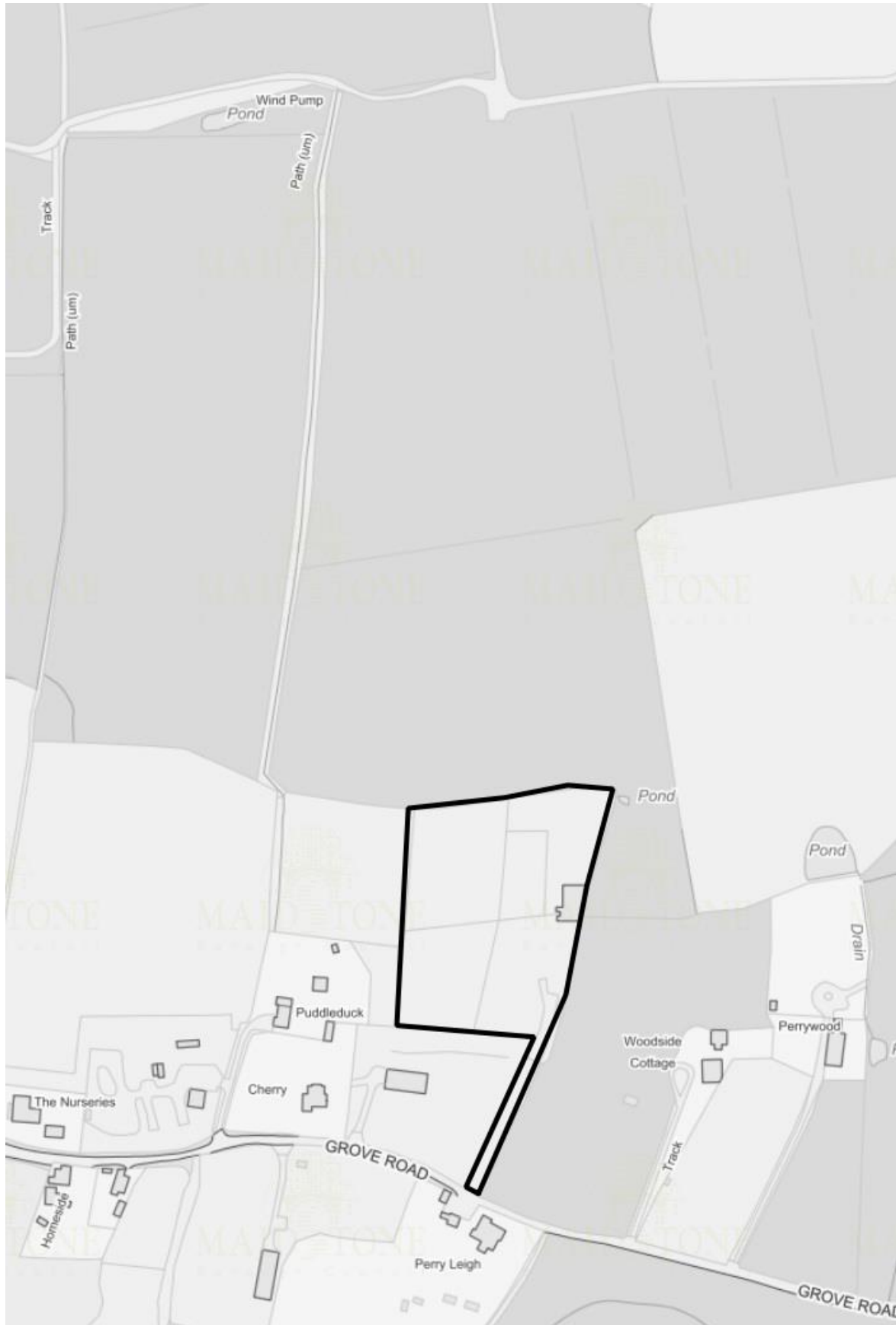
Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity

### **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.



<b>REFERENCE NO 22/502086/OUT</b>		
<b>PROPOSAL</b> Outline application for a residential development of up to 650 units inclusive of a new community hub, landscaping measures and green infrastructure, with all matters reserved except for access.		
<b>SITE LOCATION</b> Land to the east of Scocles Road, Minster on Sea, Kent		
<b>RECOMMENDATION</b> Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement as set out in the report, with further delegation to the Head of Planning / 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.		
<b>APPLICATION TYPE</b> Major (Outline)		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Call-in by Councillors Harrison and Jayes and objections from Minster Parish Council and Eastchurch Parish Council		
<b>Case Officer</b> Simon Greenwood		
<b>WARD</b> Sheppey Central	<b>PARISH COUNCIL</b> Minster-on-Sea	<b>APPLICANT</b> MLN (Land and Properties) Ltd  <b>AGENT</b> Broadgrove Planning and Development
<b>DATE REGISTERED</b> 6 <sup>th</sup> May 2022	<b>TARGET DATE</b> 15 <sup>th</sup> October 2024	
<b>BACKGROUND PAPERS AND INFORMATION:</b>		
Documents referenced in report are as follows: -		
SCP/220758/D10 Rev. E Potential Traffic Improvements at A249/A500 Roundabout		
SCP/220758/D09 Rev. D Potential Segregated Northbound Lane at A249/A500 Roundabout		
SCP/220758/D08 Rev. E Potential Segregated Southbound Lane at A249/A2500 Roundabout		
SCP/220758/D11 Assessment of Land Ownership Impact		
03/001 Proposed Access Strategy Access Road onto Scocles Road 35m ICD Roundabout		
03/002 Proposed Access Strategy Main Access onto A2500 40m ICD Roundabout		
03/003 Rev. B Proposed Access Strategy Potential A249/A2500 Roundabout Improvement Option		
Transport Assessment ref. MA /VL/P21-2283/03 (April 2022)		
Transport Assessment Addendum ref. SCP/220758/TAA/00 (June 2023)		
Transport Assessment Addendum ref. SCP/220758/TAA/01 (December 2023)		
Transport Assessment Addendum ref. SCP/220758/TAA/03 (April 2024)		

Habitat Suitability Assessment ref. NGR: TQ 95268 71950 (August 2022)  
Landscape and Visual Impact Assessment ref. 7839LVIA (April 2022)  
Landscape and Visual Impact Assessment Addendum ref. 7839LVIA (July 2022)  
Design and Access Statement (April 2022)  
Landscape Strategy Plan 7839/ASP3  
Planning Statement (April 2022)  
Tree Survey and Preliminary Arboricultural Impact Assessment ref. 1597 (21 April 2022)  
Parameters Plan BG/SRM/PP/01  
Phase 1 Geo-Environmental Risk Assessment ref. AG3392-22-AO18 (March 2022)  
Acoustic Assessment ref. MT/VL/P21-2283 /01 (April 2022)  
Historic Environment Desk Based Assessment ref. 3381/01 (March 2022)  
Preliminary Ecological Appraisal ref. 1596 (20 April 2022)  
Air Quality Assessment ref. NP/VL/P21-2283/02 (April 2022)  
Flood Risk Assessment and Outline Drainage Strategy ref. PGC199.

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=RAWI21TYFRC00>

#### SITE LOCATION AND DESCRIPTION

- 1.1. The approx. 31.06ha site presently comprises undeveloped greenfield land in agricultural use with a thin tree line and hedgerow around the site. The land undulates from northwest to southeast, dipping from c. 20m to c. 9m at its highest and lowest points.
- 1.2. The site fronts Elm Lane to the north; agricultural fields to the east; Lower Road to the south; and Scocles Road to the west. The main settlement of Minster is located to the north and west, whilst the site is mainly surrounded by open countryside/agricultural land and sporadic development to the south and east.
- 1.3. The housing to the west of Scocles Road forms part of the Thistle Hill development which has been built out over recent years and is allocated under Local Plan Policy A 7. Residential development is currently taking place within the area to the north at the junction of Scocles Road and Elm Lane which is allocated under Local Plan Policy A 21.3.
- 1.4. There is a primary school, small supermarket, community centre, doctor's surgery and pharmacy and a community hospital within the Thistle Hill development to the west and within a reasonable walking distance of the site. Sheerness town centre which



provides a broader range of shops, amenities and services is approx. 6.25km to the north-west.

- 1.5. No public footpaths, bridleways or rights of way cross the site. Public Rights of Way (PRoW) ZS9 and ZS10 provide routes from the western boundary of the site through the Thistle Hill development. PRoW ZS6 provides an approx. 400m northbound route from the northern boundary of the site which links to Scocles Road. PRoW ZS7 provides a route through agricultural land parallel to the eastern boundary of the site. The site is visible from PRoWs ZS5 and ZS8 which are located further to the east and north-east of the site.
- 1.6. The Grade II listed Scocles Court is located to the west of the site on the opposite side of Scocles Road.
- 1.7. The site is classified as Grade 3 (good to moderate) agricultural land on Natural England's Agricultural Land Classification Map.
- 1.8. The site falls entirely within Flood Zone 1 where a low probability of flooding from rivers and the sea is anticipated.
- 1.9. The site is not subject to a landscape designation nor is it located in an Important Local Countryside Gap.

### PLANNING HISTORY

- 2.1. There is no relevant planning history relating to the application site.

#### EIA Screening Opinion

- 2.2. An Environmental Impact Assessment (EIA) Screening Opinion for this planning application was provided in December 2023 under application ref. 22/502296/ENVSCR. The screening opinion advised that an EIA is not required for the proposed development. The proposal constitutes Schedule 2 development under Regulation 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The development would comprise 'urban development' and be located on a site of more than 1 hectare in size. Due to the scale and nature of the proposed development it is unlikely to give rise to significant environmental effects that would require an EIA. Impacts of the development can be satisfactorily addressed through the technical reports submitted in the formal planning application ref. 22/502086/OUT. The proposal is not therefore considered to represent EIA development.

### **Nearby Sites**

- 2.3. An application for outline planning permission was refused and dismissed at appeal in October 2022 for residential development for up to 100 dwellings at land west of Elm Lane, Minster on Sea (LPA ref. 20/504408/OUT; PINS ref. APP/V2255/W/22/3298959). The inspector applied the 'tilted balance' in accordance with paragraph 11 d) of the NPPF but identified significant harm to the character and appearance of the area which was not outweighed by the benefits of the scheme, including the delivery of new housing.

- 2.4. Outline planning permission was granted at appeal in January 2024 for residential development for up to 44 dwellings at land north of Elm Lane, Minster on Sea (LPA ref. 21/503124/OUT; PINS ref. APP/V2255/W/22/3308462). The inspector applied the 'tilted balance' in accordance with paragraph 11 d) and determined that the benefits of the scheme, including the delivery of new housing, outweighed the limited harm arising from conflict with the development plan which included slight harm to the character and appearance of the area.
- 2.5. Up to 700 dwellings and supporting infrastructure were granted outline planning permission at appeal in March 2020 at land west of Barton Hill Drive, Minster on Sea (LPA ref. 18/503135/OUT; PINS ref. APP/V2255/W/19/3238171).
- 2.6. 62 dwellings and supporting infrastructure were granted outline planning permission in August 2018 at the Slips, Scocles Road, Minster on Sea (LPA ref. 16/508117/OUT).
- 2.7. Up to 97 dwellings and supporting infrastructure were granted outline planning permission in April 2018 at land north of Plover Road, Minster on Sea (LPA ref. 15/507059/OUT).
- 2.8. Up to 431 dwellings and supporting infrastructure were granted outline planning permission in October 2017 at land at Harps Farm Parcels D, E, F and G, Minster on Sea (LPA ref. SW/13/1455).
- 2.9. Reserved matters have subsequently been approved in relation to the above outline planning consents.

#### **Background - SHLAA call for sites and Local Plan process a**

- 3.1. The application site was promoted through the Local Plan (2017) process for allocation for development to meet the borough's housing needs. A Landscape Statement was prepared in December 2016 by Huskisson Brown Associates. This Statement informed the Local Plan Examination in response to representations from the application site promoter following consultation on the Main Modifications to the Local Plan. The application site had been identified for omission from the Local Plan allocations for housing and the Statement provided a comparison with the Council's preferred alternative site at Land West of Barton Hill Drive. The report concluded as follows in terms of the landscape impact of the Masterplan development proposed at the time:

*'Overall it is not considered that the proposed development on the site can be easily mitigated, bearing in mind the site's largely rural, open character and how it is perceived in relation to the wider, open countryside, and its visually exposed landform. In particular the negative visual impact of the development on the overlooking views from the rising landform to the north of the site looking across the wider undeveloped open marshland would be permanent and could not be fully mitigated. Planting of significant woodland areas to provide screening could be out of character in this open landscape. Due to its size and scale, even taking account of the proposed mitigation measures, it is not considered that the proposed development would represent a sensitive urban extension, appropriate to the local context of Minster.'*

3.2. The site was submitted to the Council as a Strategic Housing Land Availability Assessment (SHLAA) submission under the ‘call for sites’ exercise. In the SHLAA, the site was considered to be in a relatively sustainable location in view of access to services and facilities in the wider locality and opportunities for sustainable travel.

3.3. The Council’s Local Plan Panel considered a Local Plan Review report on site selection for housing allocations on 29 October 2020. The report acknowledged that the site was assessed as suitable and deliverable in the SHLAA and noted that peak time congestion on Lower Road and the setting of the Grade II listed Scocles Court would need to be addressed. In terms of the landscape impacts and conclusion the report recommended as follows:

*‘The site is in an area of medium landscape sensitivity but is visually prominent due to the land levels that raise upwards to the north. Development in this location would punch into the open countryside beyond Scocles Road that already provides a strong physical boundary to the town... Overall, the balance of this site falls on the impacts it would have on the local landscape character of the area and traffic impacts on the Lower Road. It should not be progressed through the LPR.’*

3.4. The recommendation was accepted by the Local Plan Panel.

3.5. In response to the identified landscape constraints the proposal has been prepared as a landscape led scheme which seeks to mitigate and address the landscape impacts identified through the Local Plan site allocations process. The proposed quantum of development (650 units) is consistent with the capacity identified in the SHLAA.

**PROPOSED DEVELOPMENT-**

4.1. Outline planning permission is sought for the erection of up to 650 residential dwellings. 41.5% (270 units) of the units would be provided as affordable dwellings. The application seeks outline permission therefore the proposed unit mix could be subject to changes at reserved matters stage. The currently proposed indicative unit mix is as follows:

Tenure	1 bed flats	1 bed bungalows	2 bed flats	2 bed houses/ bungalows	3 bed houses	4 bed houses	Total
Market	28	0	0	138	160	54	<b>380</b>
Affordable (social rent)	0	0	0	28	50	22	<b>100</b>
Affordable (extra care social rent)	54	24	6	6	0	0	<b>90</b>
Affordable (shared ownership)	0	0	0	40	30	10	<b>80</b>
Total	82	24	6	212	240	86	<b>650</b>

4.2. The application is accompanied by an indicative Masterplan which details detached and semi-detached housing throughout the site with some larger blocks to the centre and west of the site. The applicant advises that the maximum height of buildings within the development will be three storeys.

- 4.3. Appearance is a reserved matter; however, the application advises that the appearance of the proposed development will be informed by the existing character of Minster on Sea and the wider residential area. The Design and Access Statement identifies indicative materials including grey and terracotta roofs, and red, brown and buff bricks. Indicative architectural features include hipped roofs, timber cladding, hanging tiles, bay windows and pillared porches.
- 4.4. A multi-use Community Hub is proposed close to the centre of the site. The applicant advises that The Plunkett Foundation (an independent charity specialising in community projects and business planning) would prepare a detailed business plan and undertake a community/stakeholder consultation with a view to delivering the facility. It is intended that this exercise would be undertaken within timescales to secure the capital costs for the centre through a Section 106 agreement. The hub would provide indoor and outdoor spaces to support social, recreational, sporting, educational and economic uses. The outdoor facilities could include a multi-use 5-a-side/sports pitch, tennis court, bowling club and allotments.
- 4.5. A medical hub is also proposed which could comprise a combined doctor's surgery and pharmacy. The delivery of the hub would be subject to a 3 stage Integrated Care Board approval process. In the event that approval is not secured then the land will be safeguarded for a use delivering community benefits, such as additional affordable housing.
- 4.6. The application advises that the scheme is 'landscape led' and in this regard is informed by a landscape assessment of the site and its surrounding context. The proposal incorporates a substantial soft landscape buffer along the eastern and southern boundaries of the site to mitigate landscape impacts as well as tree planting and soft landscaping throughout the site which is intended to better integrate the development with the wider landscape.
- 4.7. The application seeks detailed approval of access arrangements and there would be two vehicular accesses into the site. The primary access would be via a new three-arm roundabout onto the A2500 located approximately 200m to the east of the Scocles Road/A2500 junction which would require a localised realignment of the A2500 approximately 25m northwards. The second access would be provided from a new arm at the Thistle Hill Way/Scocles Road roundabout. A spine road would run north-south through the site. Off-site highways improvement works are proposed to increase capacity along Lower Road.
- 4.8. Footways/cycleways would be provided to link the development to the built-up area of Thistle Hill to the west of Scocles Road. The applicant has also agreed to fund a shared use footway/cycleway from the junction of Lower Road and Thistle Hill Way through the community woodland to the junction of Lower Road and Scocles Road. A new bus service is proposed with a route between the application site and Tesco in Sheerness.

### **Project Delivery**

- 4.9. The applicant advises that it is intended to deliver the scheme at an accelerated rate which would increase the Council's 5-year housing land supply. The applicant intends

to submit a reserved matters application for the first phase of the development in a timely manner and commence works shortly after approval of these reserved matters. Accordingly, conditions 2 and 3 require the submission of the first reserved matters application within 12 months of a grant of outline planning permission and commencement of development within 12 months of approval of the first phase reserved matters. The first phase of development will include the highways access, spine roads, drainage infrastructure and all of the affordable housing. The extra care housing will be delivered by Housing 21 (a registered provider specialising in extra care housing) whilst the social rented and shared ownership housing will be delivered by Moat Housing Association. It is intended that all of the affordable housing will be delivered within 3 years from reserved matters approval. The market housing will be delivered in parcels by small to medium sized developers which is intended to provide faster delivery than the controlled approach which could be expected of a volume housebuilder.

### CONSULTATION

- 5.1. One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 5.2. 156 letters of representation were received in relation to the consultation. Concerns/ comments were raised in relation to the following matters: -

<b>Comment</b>	<b>Report reference</b>
Harm to landscape, in particular due to prominence of site; development would be visible from low lying marshland to the south up towards Minster Abbey and historic core of Minster; dense tree belt landscape screening is not characteristic of the area; landscape screening will take a long time to mature and mitigate impact of proposals.	Paras. 6.34-6.53
Loss of green space/countryside; harm to rural character; loss of arable land; developer hasn't established grade of agricultural land; application does not consider availability of lower grade agricultural land to meet housing need	Paras. 6.10-6.13 and 6.34-6.53
Proposal is contrary to development plan policies including Local Plan Settlement strategy (policy ST 3); Scocles Road currently forms clear edge to the built-up area; site functions as a countryside gap between settlements; site was previously dismissed as unsuitable for residential development.	Paras. 1.9, 6.5-6.8 and 6.165-6.186
Overdevelopment; scheme will be built to the maximum density specified in the application	Paras. 6.66-6.70
Development should take place on brownfield sites; there are windfall sites on the Island which	Paras. 6.5-6.8 and 6.165-6.186

can accommodate housing need; precedent for further development in the locality.	
Island / Minster on Sea have already accommodated a considerable amount of residential development over recent years, including at Thistle Hill; there are more suitable sites to accommodate housing need on the mainland.	Paras. 6.5-6.8 and 6.165-6.186
Increased pressure on inadequate infrastructure and services including roads, health facilities and services, schools, nurseries, public transport, shops and amenities, sewage/drainage, electricity, water, telecommunications, refuse and recycling facilities; development will add to pressure which will arise from already consented housing not yet built; lack of community infrastructure; proposed community infrastructure, including doctor's surgery, will not be delivered.	Paras. 6.105-6.112, 6.128-6.131, 6.163
Southern Water have declared the region a 'water stressed area'. Sewage discharges into sea as a result of lack of infrastructure investment.	Paras. 6.163
Lack of youth facilities and increased youth population could result in increased anti-social behaviour; Increased crime; lack of police presence on the Island; increased social deprivation.	Paras. 6.128-6.135
Business floorspace should be prioritised over housing; inadequate job opportunities on the Island; development would not deliver economic benefits; development does not support tourism and culture	Paras. 6.5-6.8 and 6.165-6.186
Increased traffic and congestion; Scocles Road is a narrow country lane and cannot adequately serve the proposed development; traffic issues impact emergency vehicles; traffic is particularly bad at peak hours and during holiday season; traffic impacts emergency services vehicles; traffic surveys should have been undertaken during holiday season; highways modelling does not consider cumulative impacts of planned developments including prison extension; Covid was still impacting vehicular movements when traffic surveys were undertaken; highways modelling is flawed and proposed highways improvements are unsuitable and will not mitigate impact of this and other developments; site is not sustainably located and occupants will be car dependent; cycle paths will not be used,	Paras. 6.100-6.112

particularly in winter; inadequate pedestrian and cycling infrastructure to serve development; rail service from Island is inadequate; bus services are fragmented; proposed bus service could be withdrawn; Travel Plan should be provided; impacts from construction traffic.	
Detrimental impact on highway and pedestrian safety, in particular on Lower Road and Scocles Road; no pavement or cycle lane on Scocles Road and Lower Road.	Paras. 6.100-6.112
Housing is not required to meet local need; housing will accommodate London families; development will accommodate social housing needs of London boroughs and will increase deprivation; application does not demonstrate how it will meet local need.	Paras. 6.14-6.28
Swale has demonstrated a 5 year housing land supply; development of site was previously considered and rejected, on grounds including landscape harm, through the Local Plan process; harm from development is not outweighed by lack of a 5 year housing land supply	Paras. 6.5-6.8 and 6.165-6.186
Loss of wildlife and wildlife habitat; impact on Ramsar site and Special Protection Areas; harm to protected species; inadequate ecological surveys have been carried out and their findings are questioned; records of great crested newst, reptiles, bats, water vole and various bird species in the area Habitat Suitability Assessment is inadequate; harm to ecology and biodiversity; loss of hedgerows; inadequate measures to improve ecology and biodiversity.	Paras. 6.76-6.85
Increased noise and disturbance; increased litter; increased air pollution; increased light pollution.	Paras. 6.147-6.153
Loss of privacy/overlooking at nearby dwellings	Para. 6.148
Increased flood risk, particularly with global warming; increased surface water run off from hard surfaces.	Paras. 6.136-6.142
Development will not be energy efficient and does not propose measures to address climate change	Paras. 6.154-6.157
Harm to Grade II listed Scocles Court; disagreement with Heritage Assessment conclusions; harm to agricultural character of site which contributes to an understanding of the function of Scocles Court as a farmhouse.	Paras. 6.54-6.63
EIA should have been required.	Para. 2.2
Reiterate parish council objection (detailed below).	See below

Land west of Elm Lane appeal decision is relevant, particularly in relation to landscape and character impacts.	Paras. 6.34-6.53
Planning and decision making process is flawed.	Paras. 6.3-6.4
Inadequate community consultation.	Paras. 5.1-5.2

5.3. Minster Parish Council and Eastchurch Parish Council both objected to the application on the following grounds (both Councils made the same comments): -

<b>Comment</b>	<b>Report reference/ clarification</b>
Minster has seen substantial residential development in recent years including at Thistle Hill where approx. 40% of the site remains available for development. "Windfall" sites in the parish could be developed to accommodate housing need.	Paras. 6.5-6.8 and 6.165-6.186
Proposal is contrary to Local Plan Policy ST 3 which sets out the Swale settlement strategy and seeks to protect and enhance the quality, character and amenity value of the countryside, as was made clear through the Council's pre-application advice.	Paras. 6.5-6.8, 6.34-6.53 and 6.165-6.186
Site acts as part of a crucial Countryside Gap between East Minster and Eastchurch. Proposal would undermine the purpose of this gap which is to maintain the separate identities and characters of settlements, safeguard open and undeveloped areas; and prevent encroachment of built development with changes to the rural open character of the area. Development would involve the loss of open countryside, to the detriment of a much-loved landscape, precious rural amenity and residents' well-being. Release of the site would make containment difficult and development pressures further to the east difficult to resist.	Paras. 1.9, 6.5-6.8, 6.34-6.53 and 6.165-6.186
Landscape impacts harmful to the character of the area as scheme will be visible in views from the low-lying marshland to the south towards Minster Abbey and the historic core of Minster.	Paras. 6.34-6.53
Displacement of prolific wildlife and additional pressure on Sheppey's natural habitats.	Paras. 6.76-6.85
Site is not sustainably located in relation to services including GP Surgery and services offered at Queenborough and Sheerness. Pedestrian links to the site are non-existent. Proposal is contrary to Policy DM 14.	Paras. 1.4, 6.104-6.108
Increased pressure on existing utilities	Paras. 6.163-6.164



Ecological harm and impact on archaeological potential of the site.	Paras. 6.64-6.66 and 6.76-6.87
Inadequate infrastructure to serve the development detrimental to the existing local population. Urban sprawl, increased traffic and pressure on schools, medical facilities and other public services and water supply.	Paras. 6.100-6.112, 6.128-6.131 and 6.163-6.164
Adverse impact on community cohesion, particularly given high levels of social deprivation on Sheppey and increased pressure on public services from additional population.	Paras. 6.128-6.131
Transport Assessment is misleading as local highway network is already critically overloaded and Scocles Road has poor visibility on dangerous bends, narrow 'pinch points', and inadequate speed restrictions which result in queues and tailbacks. Development will result in unacceptable additional pressures.	Paras. 6.100-6.112
Encouraging pedestrians and cyclists onto the A2500 Lower Road / Scocles Road poses the constant risk of uncontrolled collision with vehicles using those roads.	Paras. 6.100-6.112
A249 has far exceeded its design capacity, and is critically congested. National Highways have restricted developments pending improvements are made to M2 Junction 5 and the A249 Grovehurst Junction as new development is generating additional traffic.	Paras. 6.100-6.112
Application specifies maximum unit numbers and will 'lock in' the maximum density.	Paras. 6.67-6.70
Council's consultation document considered this site and disregarded it as being unsustainable.	Paras. 6.5-6.8 and 6.165-6.186

5.4. The Countryside Charity (Kent) objected to the proposal on the following grounds:

<b>Comment</b>	<b>Report reference/ clarification</b>
Site is not allocated for housing development and proposal is contrary to the Local Plan, in particular Policy ST3 (Settlement Strategy), directing development to existing defined settlements and allocated sites and restricting development in the countryside.	Paras. 6.5-6.8 and 6.165-6.186
Site was considered under the 'call for sites' and was rejected, including on landscape grounds. It was not included within the now withdrawn Regulation 19 version of the emerging plan. Council clearly consider there are sufficient reasonable alternatives to the application site.	Paras. 6.5-6.8 and 6.165-6.186

Whilst the tilted balance would be applied the arguments regarding weight to be given to housing need are overstated - applicant is a site promoter and not a housebuilder. No certainty that site would be developed any time soon given potential local market saturation and slowdown in housebuilding. Affordable housing quantum could be negotiated down.	Paras. 4.9, 6.5-6.8
Council's previous objection to this site on landscape terms is noted and supported. Site is visually prominent from the lower lying marshes to the south and it provides a rural setting to the historic core of Minster. Agree that there is moderate-high sensitivity to further residential development.	Paras. 6.34-6.53
Agree and support Minster Parish Council's observations that site acts as part of a crucial Countryside Gap.	Paras. 1.9, 6.5-6.8, 6.34-6.53 and 6.165-6.186
Application downplays impact upon nearby heritage assets, in particular setting of Scocles Court.	Paras. 6.54-6.63
KCC Highways object on the basis that the application has not addressed the traffic impact on the local network with unacceptable impacts on the A2500 and A249 corridors.	Paras. 6.100-6.112
No community facilities to the south and the existing and proposed highway network to the north and west have areas of incomplete footway - KCC considered there is not a safe and suitable access from the site.	Paras. 1.4 and 6.100-6.112
National Highways raise concerns with updated Transport Assessment.	Para. 6.109
Ecological Assessment has been conducted outside the optimal time to survey for botanical species therefore the findings cannot be relied upon.	Para. 6.82
Bat activity not surveyed at correct time of year.	Para. 6.82
SSSI, SPA and Ramsar under serious threat of recreational pressure and disturbance from additional population with dogs visiting protected areas supporting vulnerable ground nesting birds, along with additional cat predation.	Para. 6.91-6.99
Natural England commented that this development could have potential significant effects on Ramsar site and SPAs. Development is unacceptably close to these designated sites having regard to cumulative effect of developments underway nearby. Application plays down site's significance for wildlife value.	Para. 6.84

Outside lighting will negatively impact area and surrounding protected sites. Light or sound will disrupt bird behaviour including migration. Artificial light at night (ALAN) disrupts reptiles, invertebrates, moths, bats, amphibians and other flora and fauna.	Condition 38
Ecological Assessment doesn't consider impacts on reptiles from cat predation, recreational pressure/disturbance, ALAN and potential mowing and spraying.	Para. 6.82
Natural England advise Habitat Suitability Assessment (HSA) should demonstrate that the site and surrounding land is unsuitable for SPA/Ramsar waterbirds which has not been done. Species-specific surveys should be undertaken to demonstrate that site is not functionally linked land. Assertion that the site is well removed from the majority of the area of the coastal designations is not accepted. Brent Geese will often travel short distances inland to graze.	Para. 6.84
Surveys for dormouse, bat, migratory bird, nesting bird, wintering bird, amphibian, great crested newt, water vole, otter, beaver, reptile, botanical and badger should be undertaken.	Paras. 6.82-6.83

## REPRESENTATIONS

- 4.2. **SBC Heritage:** - Heritage Statement understates the degree of harm to the significance of the Grade II listed Scocles Court and it is considered to result in a medium degree of less than substantial harm. Meaningful mitigation would involve a significant area of undeveloped open space on the application site. Further mitigation against the harm could be achieved through interpretation measures to promote appreciation of the historic function and original agricultural setting of the listed building. The identified harm should be balanced against the public benefits of the scheme in line with paragraph 208 of the NPPF.
- 4.3. **SBC Urban Design:** - No objections raised in design terms. It is important that design quality is integrated throughout all planning processes and conditions are suggested to secure the following and ensure the development delivers high quality design and placemaking:
- A detailed phasing plan;
  - Number of units limited to 650 units;
  - Site wide detailed Masterplan and Design Code which will be subject to review by a Design Review Panel;
  - Reserved matters application should be accompanied by a Masterplan and Design Code Compliance Statement;
  - Details/samples of materials for the external surfaces of the buildings;

- Details of landscaping;
  - Replacement of any trees and shrubs which die, become diseased or are removed within 5 years from the completion of the development;
  - Details of site levels and finished floor levels for buildings;
  - A detailed lighting strategy.
- 4.4. **KCC Archaeology:** - No objections raised subject to a condition securing an archaeological evaluation with subsequent mitigation.
- 4.5. **Mid Kent Environmental Health:** - No objections raised in terms of air quality, noise and contaminated land subject to conditions securing the following:
- A further noise assessment to identify properties that require noise mitigation measures and to secure those measures;
  - A scheme of contamination remediation in the event that contamination is identified during construction works;
  - A Construction Method Statement to mitigate air quality impacts during the construction stage;
  - Restrictions on hours of construction activity to 0730-1800 Monday to Friday and 0800-1300 on Saturdays;
  - Piling works only to take place 0900-1700 hours Mondays to Fridays.
- 4.6. **SBC Housing:** - Strong support for the proposed affordable housing in view of the high level of need on the Island arising from the 0% planning policy requirement in place.
- 4.7. **KCC Ecology:** - Sufficient information has been provided and no objections are raised subject to conditions to secure an Ecological Mitigation and Management Plan and a Landscape and Ecological Management Plan.
- 4.8. **SBC Green Spaces:-** No objections raised in respect of open space, sport and recreation subject to securing on-site formal sports facilities which meet Sport England requirements.
- 4.9. **Kent Wildlife Trust:-** Concerns are raised regarding the adequacy of the HSA and the Preliminary Ecological Assessment (PEA) and the adequacy of measures to mitigate impacts on designated sites and protected species.
- Submission does not indicate biodiversity enhancement and the development should ensure that impacts to protected and priority species habitat are mitigated, and that habitat creation and enhancement is realistic and deliverable. Any habitats created to achieve a net gain which are situated within areas provided for residential amenity would be subject to recreational and site management pressures therefore further details on habitat creation and enhancement measures and site management should be provided. *Officer note: These matters will be addressed through the Biodiversity Enhancement Plan which will be secured by condition.*

- 4.10. **KCC SUDs:** - No objections raised subject to conditions to secure details of surface water drainage scheme to accommodate all rainfall durations and intensities up to climate change adjusted critical 100 year storm, including details of maintenance.
- 4.11. **National Highways:** - No objections raised subject to conditions securing the following:
- Details of a 'Monitor and Manage Mitigation Strategy';
  - Completion of improvement works to the A249/A2500 roundabout prior to the construction of the 326<sup>th</sup> dwelling;
  - Approval of a full Travel Plan;
  - Construction Management Plan.
- 4.12. **KCC Minerals:-** No objections raised.
- 4.13. **KCC Highways:** - No objections raised. The applicant has demonstrated that traffic associated with the proposed development can be accommodated on the highway network, and where there would be areas of congestion its impact can also be mitigated to provide overall betterment.
- 4.14. National Highways have requested a 'monitor and manage' condition to inform the delivery of highways improvements. Provided KCC is included in the review group to consider the impact on the local highway network and input into the approval, this is acceptable.
- 4.15. Walking and cycling routes to link the development to the wider area and its amenities can be achieved and delivery of these will need to be coordinated with the phasing of the development.
- 4.16. The proposed roundabouts onto Scocles Road and Lower Road are considered suitable for access to the development, though use of the Scocles Road roundabout should be restricted to serving a maximum of 300 dwellings only until the connection has been made through to the proposed Lower Road roundabout.
- 4.17. A new bus service can be provided to cater for the development and enhance the offer to existing communities, and the developer would be expected to fund this in full for a period of 4 years.
- 4.18. Financial contributions to meet the full cost of running the bus service for a minimum of 4 years and Sustainable Travel Vouchers for each dwelling should be secured through a Section 106 agreement.
- 4.19. Conditions are requested to secure the following:
- Off-site highway works to the A2500 Lower Road / Barton Hill Drive roundabout;
  - Vehicle accesses onto Scocles Road and the A2500 Lower Road, and a spine road connecting the two;
  - A footway on the eastern side of Scocles Road between Thistle Hill Way and Elm Lane;
  - A shared use footway/cycleway alongside Lower Road and extending to Scocles Road;

- A shared use footway/cycleway between the existing provision at the junction of Lower Road and Thistle Hill Way to the junction of Lower Road and Scocles Road;
  - Vehicle parking and turning space to be provided, surfaced and drained prior to occupation of each dwelling;
  - Details of the electric vehicle charging;
  - Details of cycle storage;
  - Approval of details of estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture;
  - Travel Plan.
- 4.20. **KCC PROW:** - There are no Public Rights of Way directly affected within the site; however, there are important routes adjacent to the site which provide access to local facilities, amenities and the wider PRoW network. No objections are raised to the application; however, a financial contribution of £48,925 (index linked) is requested to mitigate the increased use of the PRoW network. There would also be a negative impact on the landscape and visual amenity of the wider network and the developer contributions sought would mitigate this loss of landscape and visual amenity.
- 4.21. Consideration should be given to pedestrian crossings over Scocles Road to connect the development directly to the above paths, with signed links out of the site to aid this direct connectivity.
- 4.22. **Lower Medway Internal Drainage Board:-** It is proposed to discharge into watercourses adopted by the Board. Adequate access to the watercourses for maintenance purposes should be secured. Conditions are requested to secure the following:
- Detailed surface water drainage scheme incorporating Sustainable Drainage Systems (SuDS);
  - A Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed during the construction stage;
  - A SuDS maintenance schedule for the lifetime of the development.
- 4.23. **Environment Agency:** - No comments.
- 4.24. **Natural England:** - Initial comments advised that further information was required in order to determine impacts on functionally linked land for non-breeding birds in relation to the Swale Ramsar Site and Special Protection Area (SPA), Outer Thames Estuary SPA and Medway Estuary and Marshes SPA. The applicant responded through the submission of a Habitat Suitability Assessment which concluded that the site does not represent supporting habitat or functionally linked land to any of the neighbouring SPA or Ramsar sites. Following concerns raised by the Kent Wildlife Trust, Natural England were provided with further data by the applicant and have confirmed that they are satisfied that the application site is not functionally linked land.
- 4.25. **Southern Water:** - The proposed development will lie over an existing 315mm public water distribution main and 12 inch water trunk main, which will not be acceptable to Southern Water. The exact position of the public apparatus must be determined before

the layout of the proposed development is finalised. It might be possible to divert the water main, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions.

- 4.26. Conditions and informatives are requested relating to the diversion of the water main, delivery of sufficient sewerage infrastructure to serve the development, maintenance and/or adoption by Southern Water of SUDS infrastructure and water supply.
- 4.27. **SBC Trees:-** The main arboricultural features on the development area are existing boundary hedges with sporadic mature trees being mainly Poplar. The proposed indicative layout would retain much of the boundary hedges and trees. If outline planning permission is granted the final detailed layout should be accompanied by an updated and more comprehensive arboricultural impact assessment and tree protection plan.
- 4.28. In terms of the proposed landscape strategy plan it is good to see linear tree planting along the major roads and expansion and enhancement of the boundary plantings. The development should seek to conserve and enhance biodiversity through the final design. The current landscape strategy could be improved through the introduction of small copse/woodland around the boundaries and the use of larger tree species (such as Black Poplar) in the more open public spaces. An updated and more detailed landscape masterplan should be submitted at reserved matters stage.
- 4.29. **Kent Police:** - No objections raised subject to a condition securing crime prevention and community safety design measures.
- 4.30. **Integrated Care Board:** - Financial contribution of £675,792 is sought towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.
- 4.31. **SBC Climate Change:** - There is no reference to sustainability in any of the relevant documents. However, it is noted that the application seeks outline planning permission and further detail would be anticipated at reserved matters stage. It is also noted that the Future Homes standard, which will become mandatory in 2025, will ensure that the development achieves appropriate standards in terms of energy efficiency and carbon reduction. Conditions are requested to secure sustainable design and energy efficiency measures and details of measures to reduce water consumption.
- 4.32. **Swale footpaths:** - If the development were to go ahead then proper provision for traffic free pedestrian routes (already desirable) would become necessary. The proposed layout provides space for them.

#### DEVELOPMENT PLAN POLICIES

- 5.1. **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 –**
- **ST 1** Delivering sustainable development.
  - **ST 2** Development targets for jobs and homes 2014- 2031

- **ST 3** The Swale settlement strategy
- **ST 4** Meeting the Local Plan development targets
- **ST 6** The Isle of Sheppey area strategy
- **CP 1** Building a strong, competitive economy
- **CP 2** Promoting sustainable transport
- **CP 3** Delivering a wide choice of high-quality homes
- **CP 4** Requiring good design
- **CP 5** Health and wellbeing
- **CP 6** Community facilities and services to meet local needs
- **CP 7** Conserving and enhancing the natural environment
- **CP 8** Conserving and enhancing the historic environment
- **DM 6** Managing transport demand and impact
- **DM 7** Vehicle parking
- **DM 8** Affordable Housing
- **DM 14** General development criteria
- **DM 17** Open space, sport and recreation provision
- **DM 19** Sustainable design and construction
- **DM 21** Water, flooding and drainage
- **DM 24** Conserving and enhancing valued landscapes
- **DM 28** Biodiversity and geological conservation
- **DM 29** Woodland, trees and hedges
- **DM 31** Agricultural land
- **DM 32** Development involving listed buildings.

## 5.2. **Supplementary Planning Guidance/Documents –**

- Landscape Character and Biodiversity Appraisal (2011);
- Swale Borough Council’s Noise and Vibration Planning Technical Guidance (2020);
- KCC Developer Contributions Guide;
- Developer contributions SPD (2009);
- Swale Landscape Character and Biodiversity Appraisal SPD (2011);
- Parking Standards SPD (2020);
- Planting on New Developments: A Guide for Developers;
- Air Quality Technical Guidance (2021);
- Guidance for complying with the climate change planning condition to reduce operational carbon of new dwellings in Swale by 50% (2020);
- Kent Design – A Guide to Sustainable Development (2000);
- National Design Guide: Planning practice guidance for beautiful, enduring and successful places (2021);
- Renewable Energy Guide (2014);
- Housing Supply Statement (2022 -2023);
- Open Spaces and Play Area Strategy (2018-2022);
- A Heritage Strategy for Swale (2020);
- National Planning Practice Guidance.



## ASSESSMENT

- 6.1. This application is reported to the Committee because Councillors Harrison and Jayes have called the application in to be considered by the Planning Committee whilst Eastchurch and Minster Parish Councils have raised objections.
- 6.2. The main considerations involved in the assessment of the application are:
- The Principle of Development
  - Loss of Agricultural Land
  - Size and Type of Housing
  - Affordable Housing
  - Landscape and Visual
  - Heritage
  - Archaeology
  - Design of the proposed development
  - Ecology
  - Transport and Highways
  - Air Quality
  - Community Infrastructure
  - Open Space, Sport and Recreation
  - Flood Risk, Drainage and Surface Water
  - Contamination
  - Living Conditions
  - Sustainability / Energy
  - Other Matters

### **Principle**

- 6.3. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 6.4. 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.

### Housing

- 6.5. Local Plan Policy ST1 (4) states that to deliver sustainable development in Swale, all development proposals will, as appropriate, accord with the Local Plan settlement strategy. Local Plan Policy ST3 (5) relates to the settlement strategy and states that at locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national

planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.

- 6.6. The supporting text to Policy ST3 states in part that the primary objective of the strategy outside the built-up boundaries will be to protect it from isolated and/or large scales of development (as is proposed). The site lies adjacent to but wholly outside of the settlement boundary for Minster in the open countryside. Accordingly, the application is in conflict with Policies ST 1 and ST 3.
- 6.7. The Council can demonstrate a 4.1-year supply of housing. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the 'Tilted Balance' in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused.
- 6.8. As noted above, residential development conflicts with the Local Plan settlement strategy. However, given the Council's lack of a 5 year housing land supply and the application of the 'Tilted Balance', the defined boundary around Minster is not afforded full weight. It is clear from the SHLAA assessment that the site is suitable for residential development of this scale. The erection of 650 dwellings including 41.5% affordable housing would contribute significantly towards addressing the borough's lack of a 5-year housing land supply whilst addressing a significant need for affordable housing. The application of the 'Tilted Balance' affords significant weight to the delivery of housing. The subsequent sections of this report make an assessment of the impacts of the development and consideration of whether these would significantly and demonstrably outweigh the benefits. This is considered in the Planning Balance section of this report.

#### Community Facilities, Sports Pitches, Open Space and Recreation

- 6.9. The proposal includes a multi-use Community Hub, Medical Hub, sports pitches, children's play areas, allotments and open space for recreation. The requirement for this provision arises from the demand generated by future occupiers of the proposed housing, and its acceptability is interrelated to the acceptability of the housing. In the event that the proposed housing is considered acceptable it would therefore follow that community, sporting and recreational facilities necessary to support the residential use are also acceptable in principle.

#### **Loss of Agricultural Land**

- 6.10. Policy DM 31 of the Local Plan indicates that development on agricultural land will only be permitted where there is an overriding need that cannot be met on land within the built-up area boundaries. The policy indicates that development on Best and Most Versatile (BMV) agricultural land (identified as Grades 1, 2, and 3a) will not be permitted unless three criteria have been met. This requirement is reiterated under Local Plan policy ST 6 (The Isle of Sheppey area strategy).

- 6.11. NPPF paragraph 175 is concerned with allocating land for development which has the least environmental or amenity value where consistent with other policies in the Framework. Footnote 58 to this paragraph advises that where significant development of agricultural land is demonstrated to be necessary, areas of poorer land should be preferred to those of a higher quality.
- 6.12. Grade 3 agricultural land is subdivided into categories 3a and 3b. Grade 3b is not categorised as BMV and is not captured by policy DM 31. Natural England's Agricultural Land Classification Map identifies that the site is Grade 3 agricultural land but this map does not differentiate between Grades 3a and 3b. The applicant has submitted correspondence from an Agronomist who has visited the site and notes that it is currently in arable production supporting a poor crop of wheat. A visual inspection of the soil type and structure was undertaken along with a soil structure pentameter test which identified soil compaction leading to an anaerobic soil with extremely low organic matter and a worm count of 2. The agronomist concluded that the site comprises Grade 3b agricultural land. It is also noted that the site at Land West of Elm Lane to the north of the application site (considered under planning application ref. 20/504408/OUT) was identified as comprising Grade 3b agricultural land with a small area of Grade 4 land. Defra's Magic Map indicates that the land to the west of Scocles Road which has now been developed as part of the Thistle Hill estate comprised Grade 3b agricultural land.
- 6.13. The available information suggests that the site comprises poorer quality agricultural land which is preferable to develop in order to meet the borough's housing needs. It is therefore considered that the proposal is acceptable in terms of loss of agricultural and is in accordance with the NPPF.

### **Size and Type of Housing**

- 6.14. Paragraph 9 of the NPPF states that sustainable development involves seeking positive improvements in the quality of the built environment, including widening the choice of high-quality homes. The NPPF recognises that in order to create sustainable, inclusive and diverse communities, a mix of housing types, which is based on demographic trends, market trends and the needs of different groups, should be provided.
- 6.15. The proposed development will deliver 41.5% (270 units) affordable housing which represents additionality over the Local Plan Policy DM 8 requirement for 0% affordable housing in respect of developments of 11 or more dwellings on the Isle of Sheppey.
- 6.16. Local Plan Policy CP 3 requires the mix of tenures and sizes of homes provided in any development to reflect local needs and the Strategic Housing Market Assessment. The proposed mix of housing is set out below:

<b>Tenure</b>	<b>1 Bed Flat</b>	<b>1 Bed House</b>	<b>2 Bed Flat</b>	<b>2 Bed House</b>	<b>3 Bed House</b>	<b>4 Bed House</b>	<b>Total</b>
<b>Market*</b>	28	0	0	138	160	54	380
<b>Affordable</b>	54	24	6	74	80	32	270
<b>Total</b>	82	24	6	212	240	86	650

\* Market housing is indicative at this Outline stage.

6.17. The supporting text to Local Plan Policy CP3 sets out requirements for market and affordable housing by size. The table below shows the requirements set out in supporting text for Local Plan Policy CP3 and how the proposal compares with this.

<b>Tenure – Local Plan</b>	<b>1 Bed</b>	<b>2 Bed</b>	<b>3 Bed</b>	<b>4 Bed</b>	<b>5 Bed</b>	<b>Total</b>
<b>Market Required</b>	7%	36%	42%	15%	0%	100%
<b>Market Proposed</b>	7.4%	36.3%	42%	14.2%	0%	100%
<b>Affordable Required</b>	8%	20%	36%	36%	0%	100%
<b>Affordable Proposed</b>	28.9%	29.6%	29.6%	11.9%	0%	100%

6.18. The Council has a Housing Market Assessment (HMA) prepared in 2020, i.e., more recently than the Local Plan, and after the introduction of the standard method for calculating the objectively assessed need. As such officers have considered the proposed mix against that set out in the HMA.

<b>Tenure - HMA</b>	<b>1 Bed</b>	<b>2 Bed</b>	<b>3 Bed</b>	<b>4 Bed</b>	<b>5 Bed</b>	<b>Total</b>
<b>Market Required</b>	7%	33%	41%	19%	0%	100%
<b>Market Proposed</b>	7.4%	36.3%	42%	14.2%	0%	100%
<b>Affordable Required</b>	27%	23%	30%	20%	0%	100%
<b>Affordable Proposed</b>	28.9%	29.6%	29.6%	11.9%	0%	100%

6.19. The HMA (2020) broadly echoes the Local Plan requirements in terms of the mix of dwelling sizes, albeit the requirement for 1-bedroom affordable dwellings is notably higher. It should be noted that this reflects the Borough wide need.

6.20. In terms of the market housing, the proposed indicative mix would broadly equate to the identified borough wide need as set out above. Local housing market areas have been identified which relate to specific postcode evidence. For the Isle of Sheppey, the supporting text to Policy CP3 states that demand is greatest for family housing. Future development of quality family housing that reflects the character of the area should be encouraged. In view of the identified need within Sheppey, it is considered that the proposed development would provide an acceptable mix of housing.

6.21. The affordable provision is fairly broadly in accordance with the requirements identified above. However, it should also be noted that the housing register indicates considerable demand for all sizes of dwellings. The figures for Sheppey are as follows, as of July 2024:

- 1 bed - 361 applicants
- 2 bed - 214 applicants
- 3 bed - 182 applicants
- 4 bed - 132 applicants.

- 6.22. The social rented provision is intended to directly respond to identified local need whilst the shared ownership provision is based upon market research which has been undertaken to identify the likely need. The Council's Affordable Housing Manager raises no objection in relation to the affordable housing tenure mix.
- 6.23. In terms of extra care housing, the KCC Adult Social Care and Health Commissioner has advised that the borough presently has 51 extra care units and has a need for an additional 205 extra care units by 2026 with a potential demand for a further 63 units by 2031. The identified need is not broken down by unit size; however, in view of the outstanding need the 90 extra care units proposed would make a significant contribution to meeting current need. The Commissioner advises that KCC are hugely supportive of the proposed delivery of extra care housing.
- 6.24. Officers have taken account of the context in which the site is set, policy requirements, the HMA, the housing register, the local housing market areas and overall analysis shows that the proposal satisfactorily complies with Local Plan Policy CP3.

### **Affordable Housing**

- 6.25. The NPPF sets out the requirement for setting appropriate affordable housing levels for new development based on up-to-date evidence. Local Plan Policy DM 8 sets out that nil affordable housing will be required from developments on the Isle of Sheppey as the delivery of affordable housing without grant funding has not been demonstrated to be viable. As a result, affordable housing need on the Isle of Sheppey is high and the delivery of new affordable homes, in particular affordable and social rent tenure housing, falls far below local housing need.
- 6.26. Paragraph 7.3.14 of the Local Plan notes that there is an identified need for affordable older person housing (retirement dwellings and extra care housing) and the current viability evidence shows this to be marginally viable in Faversham and rural areas...As a result, extra care housing is not sought in the policy, however the Council is keen to support proposals for affordable older persons housing.
- 6.27. As set out above, there are a considerable number of applicants on the Council's Housing Register for Sheppey for all unit sizes. The number of households living in temporary accommodation in Swale was the highest across all Kent authorities last year. The following proposed affordable tenure mix will be incorporated within the scheme: -

	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>4 bed</b>	<b>Total</b>
<b>Social rent extra care</b>	78	12	0	0	90
<b>Social rent</b>	0	28	50	22	100
<b>Shared ownership</b>	0	40	30	10	80

- 6.28. The proposed delivery of 270 units (41.5%) affordable housing would obviously exceed the nil policy requirement for the Isle of Sheppey. There are no tenure mix requirements in view of the nil policy requirement. The provision of 80 (29.6%) shared ownership and 190 (70.4%) social rented homes is very much welcomed in affordable

housing terms. As noted above, the proposed affordable housing would be delivered during the first phase of the development and therefore should assist in meeting affordable housing need in a timely manner.

#### Inclusive and Mixed Communities

- 6.29. Policy CP 3 promotes the delivery of inclusive and mixed communities. The proposed phasing of the development will involve the delivery of market and affordable housing within separate parcels of land, with the affordable housing comprising the first phase of development. A 60-unit extra care block and 30 extra care bungalows are proposed within a parcel to the centre of the site, immediately to the east of the Community Hub. The shared ownership and social rent housing will be provided within a parcel to the north of the site (80 units) and within a parcel to the south-east (100 units). There will be pepper-potting of the shared ownership and social rent tenures within these parcels and the houses will be designed to be indistinguishable in tenure terms. It is also noted that the affordable housing will comprise a range of unit sizes to respond to local need whilst residents of all tenures will share the community facilities and open spaces within the site. It is therefore considered that, whilst there will be concentrations of affordable housing within the site, the development will facilitate a sufficiently inclusive and mixed community.

#### Accessible and Adaptable Homes

- 6.30. In line with Policies DM8 and CP3 of the Local Plan the affordable homes should be designed for use by disabled persons and made available for a variety of groups including families, vulnerable and older persons. As such, there should be a number of accessible and wheelchair adaptable homes provided. It is proposed that at least 10% of the social rented homes be built to Building Regulations Part M4(3) standard (wheelchair user dwelling) with the remaining affordable homes provided to Part M4(2) standard (accessible and adaptable dwellings). It is recommended that the accessible and adaptable homes are secured by planning condition (No. 48).

#### Affordable Housing Delivery

- 6.31. The terms of Homes England grant funding for the delivery of affordable housing presently imposes restrictions whereby the funding cannot be applied in cases where the affordable housing is secured through a Section 106 agreement. In this case 25% of the proposed affordable housing can be delivered with recycled grant funding which Moat Housing Association are able to allocate to the scheme and which is unaffected by these restrictions. The remaining 16.5% affordable housing will be delivered with Homes England grant funding and accordingly cannot be secured by a condition or legal agreement. A mechanism has been agreed whereby the Section 106 agreement will include 2 options relating to the delivery of affordable housing. Option A will secure the 25% affordable housing which will be delivered with recycled grant funding. Option B will secure the total (41.5%) affordable housing proposed. The additional 16.5% is included within the Section 106 agreement but as there is an alternative Option A there would not be a conflict with the Homes England grant funding restrictions.
- 6.32. The ability of the applicant to exercise Option A represents a risk that the additional 16.5% affordable housing is not delivered. The applicant advises that there are

contracts in place and commitments on the part of Homes England, Moat Housing and Housing 21 to fund and deliver the proposed affordable housing. Homes England is a public body whilst the registered providers are not-for-profit organisations and are reputable. It can be considered that these factors go some way to mitigate any risk that the affordable housing will not be delivered. However, in view of this risk it is considered that within the planning balance substantial weight can be afforded to the delivery of the 25% affordable housing and significant weight can be afforded to the delivery of the further 16.5% affordable housing.

- 6.33. The proposals are considered consistent with policies DM8 and CP3 of the Local Plan and the NPPF and are therefore acceptable in terms of affordable housing.

### **Landscape and Visual**

- 6.34. The NPPF requires decisions to ensure that development is ‘*sympathetic to... landscape setting*’ whilst paragraph 174 criterion b) states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

- 6.35. The site is not within a designated landscape. Local Plan Policy DM24 states that the value, character, amenity and tranquillity of the Borough’s landscapes will be protected, enhanced, and, where appropriate, managed. The policy further states at Part B that non-designated landscapes will be protected and enhanced and planning permission will be granted subject to the minimisation and mitigation of adverse landscape impacts. When significant adverse impacts remain, the social and or economic benefits of the proposal need to significantly and demonstrably outweigh the harm to the landscape character and value of the area.

- 6.36. Local Plan Policy ST6 (the Isle of Sheppey area strategy) states at part 9 that development proposals will, as appropriate:

*Improve the condition and quality of landscapes in the area, especially those in poor condition and ensure that development is appropriate to landscape character and quality, especially within landscape designations and areas with low or moderate capacity to accommodate change. Additionally, the Council will seek to bring landscape wide initiatives to Sheppey to improve landscape condition.*

- 6.37. The application site is not noted for its special quality or character in landscape terms. It consists of a large arable field and is set within a landscape that has a sloping landform, moderate sense of rural character, is visually prominent in relation to views from the lower lying marshes and contributes to a rural setting to the historic core of Minster. The site is bound along the northern edge by dense hedgerows and trees which help to screen the site in this direction. However, there is open visibility of the site along Scocles Road and Lower Road.

- 6.38. The National Character Area Profile (prepared by Natural England in 2013) locates the site within the landscape character area of the ‘Greater Thames Estuary’. The National Character Area Profile states that the Greater Thames Estuary should be improved and protected and planting to screen new urban and industrial developments should be introduced to help protect the tranquillity of the estuary.

- 6.39. The Landscape Assessment of Kent (2004) locates the site within the North Sheppey Local Character Area (LCA) and describes this LCA as having been subject to change whereby it now has an exposed and open character and is in poor condition. It is considered to have a moderate sensitivity to change. The recommendations of the Assessment include encouraging urban planting within built development and the creation of urban edges which promote intermittent views of built development beyond.
- 6.40. Swale's Landscape Character and Biodiversity Appraisal (2011) is also relevant and the application site lies within Swale's Landscape Character Area 13 (LCA13) (Central Sheppey Farmlands). The overall condition of LCA13 is identified as 'poor' due to fragmented shelterbelts and hedgerows and urban fringe activities. LCA13 is considered to have a 'moderate' sensitivity to change. The hills are visually prominent, and the landscape has a rural character, despite the urbanising influence of roads, lighting and ribbon development. It is noted that the condition of individual parcels of land within LCA13 vary enormously.
- 6.41. In 2018, the Council commissioned Land Use Company (LUC) to carry out and produce the Swale Landscape Sensitivity Assessment (2019). The application site forms part of Landscape Sensitivity Parcel MR2 and the assessment notes that the landscape is important as part of the rural setting for the historic core of Minster, including Minster Abbey on the ridge. The assessment concludes that MR2 has an overall moderate-high sensitivity to residential development of 2-3 storey housing over 2ha. This is due to the sloping landform, moderate sense of rural character, visual prominence in views from the lower-lying marshes, and the role the slopes provide as a rural setting to Minster. It states, "*there may be opportunities for limited further housing infill particularly where this can help achieve better overall integration of the urban edges with their landscape setting*".
- 6.42. The Assessment provides some general guidance which encourages a landscape led approach to new development and conservation of the open rural slopes which are prominent in views from the marshland to the south and form a rural setting and foreground to Minster Abbey. A predominantly rural setting should be maintained along the A2500 with minimal development to its south, whilst development should be low rise and visually prominent buildings should be avoided. The site is located centrally within the MR2 parcel on the lower slopes rising up from Lower Road (A2500) which are identified as sensitive. The location of the site extending out into the wider landscape east of Scocles Road would create a more exposed unintegrated urban edge to this part of Minster. It also forms part of the open rural setting along the A2500.
- 6.43. As noted above, the applicant advises that they have adopted a 'landscape-led' approach to the proposed development whereby the proposals were informed by a landscape assessment to understand the site and surrounding context from a landscape perspective. A landscape parameters plan was produced which detailed potentially sensitive landscape areas within the site and incorporated a substantial, soft-edged landscape buffer to integrate the development with surrounding countryside. The proposals incorporate generous green spaces and greater offset to the surrounding landscape.



- 6.44. The application is accompanied a Landscape Visual Impact Assessment (LVIA) which provides a landscape character baseline for the assessment which is informed by the National, County and District level assessments. The methodology and findings of the LVIA have been reviewed and in terms of the landscape character baseline it is considered that the site has a medium landscape value and a moderate-high sensitivity to change whilst the broader area has a medium sensitivity to change.
- 6.45. In terms of effect on landscape character, the proposed development would be integrated into the existing settlement edge which, along with the landscape strategy would reduce its impact on the wider landscape setting. The impact on the localised setting would also be mitigated by the landscape strategy as well as the scale, massing and layout of the proposed development. These measures would also assist in mitigating the impact of the development within the site itself whilst, given the relationship of the site to the existing settlement of Minster, it would not introduce elements significantly at odds with the immediate prevailing character. Accordingly, it is considered that the proposed residential development of an agricultural field, which forms a prominent part of a wider rural landscape, would result in a moderate (or greater) impact on the site and the localised and wider landscape character area at year 1 and remain at moderate in year 10 once the proposed landscape planting has established.
- 6.46. The wider landscape is identified as contributing to the rural setting of Minster Abbey and as being visually prominent in views from the marshland to the south. The LVIA acknowledges that there would be an adverse impact in landscape terms on the setting of Minster Abbey; however, in view of the significant extent of built form around the Abbey the proposed development would not result in a significant change in the landscape character and visual amenity of its setting. In terms of views from the marshes to the south, visibility of the site is highly limited by intervening arable land and vegetation structure whilst the proposed landscape buffer would further reduce the impact of the development.
- 6.47. The LVIA considers the visual impact of the assessment from a series of publicly accessible viewpoints which include PRowS ZS5 and ZS7 to the east, ZS6 to the north and ZS8 to the north-east. 21 viewpoints of the site were selected through a field assessment and a desk study informed by the use of a 'Zone of Theoretical Visibility' (ZTV) which is a tool employed to identify the likely (or theoretical) extent of visibility of a development. The LVIA then goes on to consider the likely significance of the landscape and visual effects at year 0 and at year 10 once the proposed landscape planting has established.
- 6.48. Four views have been assessed from PRowS ZS7 and there will be a moderate adverse effect in year 0 and a minor beneficial effect in year 10 following the establishment of extensive landscaping to the eastern boundary. Two views from PRowS ZS8 have been assessed and there will be a moderate adverse effect in both years 0 and 10 as the site cannot be screened from these elevated viewpoints. Three longer distance views of the site from PRowS ZS5 have been considered and there will be a moderate neutral effect in year 0 and a moderate beneficial effect in year 10 once the landscape planting has matured. Two viewpoints from PRowS ZS6 have been assessed and an additional

degree of roofscape would be perceived which will be increasingly screened by landscape planting with a low neutral effect in year 1 and a negligible beneficial effect in year 10.

- 6.49. Two viewpoints experienced by motorists on Lower Road have been assessed. Viewpoint 12 is approx. 1.2km to the southeast of the site and is identified as a sensitive view whilst Viewpoint 13 is located adjacent to the southern boundary of the site. Viewpoint 12 would be subject to at least a moderate adverse impact in year 0 and year 10 due to the sloping orientation of the field and limited opportunity for landscape screening. Viewpoint 13 from Lower Road adjacent to the southern boundary of the site would be subject to a moderate adverse impact in both year 0 and year 10 as existing boundary vegetation will be replaced by a new access road and junction whilst new landscape planting is proposed to soften views of the development.
- 6.50. Six viewpoints which will be experienced by residents on Scocles Road have been assessed and it is considered that there will be a moderate adverse impact in year 0, including by reason of the introduction of the access road from Scocles Road. The establishment of landscape planting will reduce the visual effect of the development to low neutral by year 10.
- 6.51. The proposed development will be entirely screened by the topography from the remaining 2 viewpoints.
- 6.52. In conclusion, the application site has a landscape value and visual sensitivity due to its rising topography and relationship with the wider setting of Minster and the marshes, the open character of the landscape, availability of overlooking views and the prominence of the site within them. Mature landscape planting will act as a screen for the development and will provide some mitigation of the impacts of the proposal. Visibility is likely to be greatest during the construction period, however this would be for a limited period. The landscape strategy includes internal tree planting which is intended to soften the appearance of the proposed buildings and create an appropriate landscape character on the site, whilst enhancing biodiversity.
- 6.53. Details of landscaping would be submitted at reserved matters stage which would represent an opportunity to ensure that the planting provides an appropriate degree of landscape screening with a suitable mix of native planting. In view of the impact of the proposal on landscape character and the visual impacts to landscape, and having regard to the landscape mitigation which will mature around year 10, it is considered that the proposed development would not protect and enhance this non-designated landscape and would result in a moderate degree of harm in landscape terms. As such, the proposed development would not be in accordance with the NPPF and Local Plan Policies ST6 and DM24.

### **Heritage**

- 6.54. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("PLBCAA") provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority

shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 6.55. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 6.56. Local Plan Policy CP 8 states that development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and special identity. Policy DM32 relates to listed buildings and is clear that proposals affecting listed building must preserve the buildings setting and any features of special architectural or historic interest.
- 6.57. The application is accompanied by a Heritage Statement which identifies that the Grade II Listed Scocles Court, a former farmhouse located on the opposite side of Scocles Road, is the only heritage asset which would be materially impacted by the proposed development. The farmhouse originally benefitted from the rural setting provided by Scocles Farm which included agricultural land within the application site as well as land to the south, west and north. Housing development has been allowed to take place to the south, west and north of the site. The Heritage Statement asserts that the significance of the asset is largely derived from its architectural and archaeological interest and whilst the agricultural fields to the east of Scocles Road do relate to its former function as a farm. The redevelopment of its immediate farmstead setting and envelopment within modern residential development has served to diminish any understanding of its role within the context of the farmstead and, in turn, the contribution setting makes to the significance of Scocles Court. Accordingly, the statement concludes that Scocles Court makes no contribution to the significance of the designated heritage asset and, therefore, there will be no harm as an effect of the proposed development.
- 6.58. SBC Heritage consider that the proposed development of the fields to the east would in effect largely remove the last meaningful vestiges of agricultural setting to this building, thereby potentially giving rise to the situation where its historic function cannot be readily understood and/or appreciated, to the detriment of public enjoyment of this designated heritage asset.
- 6.59. SBC Heritage advise that, in the context of the changes that have already taken place to the setting of this former farmhouse and those that are agreed and effectively in the pipeline to be delivered, it is considered that there will be a degree of less than substantial harm towards the middle range of the spectrum. This harm should be mitigated as far as reasonably possible whilst the remaining harm should be balanced against the public benefits of the scheme.

- 6.60. The applicant has revised the Masterplan layout to provide a greater quantum of open space within the application site immediately opposite Scocles Court; however, it is advised that the revisions do not sufficiently address the identified concerns. The Council's Heritage Manager has suggested that further mitigation could be achieved through interpretation measures which would assist local residents and visitors to the area being able to appreciate the historic function and original agricultural setting of the listed building. Condition 51 is recommended to secure a heritage interpretation board.
- 6.61. SBC Heritage suggest that meaningful mitigation would likely need to consist of a wide green corridor (minimum width of 50 metres) positioned directly adjacent the listed building providing it with a visual linkage to the farmland to the east of the application site area, or alternatively, the southwest part of the site remaining undeveloped and ideally retained at least in part agricultural use. The applicant has declined to incorporate such measures and it can be accepted that such measures would unduly compromise the scheme as submitted, including the delivery of affordable housing. Accordingly, the identified medium level of less than substantial should be balanced against the public benefits of the proposal in accordance with paragraph 208 of the NPPF.
- 6.62. The decision-maker needs to ensure that they give considerable importance and weight to any harm to the significance of a designated heritage asset, and ensure that the more important the asset, the more the weight that is given to the harm in the balancing exercise.
- 6.63. 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. The public benefits of the proposed development are weighed against the identified medium level of less than substantial harm within the planning balance section of this report; however, it should be noted that this is a separate exercise to the assessment of the overall planning balance.

### **Archaeology**

- 6.64. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 6.65. The application is accompanied by a Historic Environment Desk Based Assessment which identifies that there may be potential for the survival of sub-surface remains of the later prehistoric and Roman period date which would be of local significance. There is also some potential for the survival of sub-surface features relating to medieval and postmedieval agricultural activity, such as ploughing or drainage features, which could be impacted by the proposed development in the south-east of the site, but any such remains would be considered to be of negligible significance. The KCC Archaeological Officer advises that a condition should be imposed on any consent requiring an archaeological investigation.

- 6.66. Subject to such a condition, no objection is raised in relation to compliance with policy DM34 of the Local Plan which requires archaeological mitigation or the preservation of important archaeological features in situ.

### **Character and appearance**

- 6.67. 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.
- 6.68. The National Design Guide illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. The Kent Design Guide seeks to provide a starting point for good design while retaining scope for creative, individual approaches to different buildings and different areas and provides criteria necessary for assessing planning applications.
- 6.69. Whilst the layout, appearance, scale and landscaping of the development are reserved for future consideration the illustrative Masterplan provides some indication of how the proposal could be developed. Intent is also shown within Design and Access Statement which advises that the appearance of the proposed development will be informed by the surrounding context with indicative architectural features including hipped roofs, timber cladding, hanging tiles, bay windows and pillared porches. Members will also appreciate that as details other than access are reserved, there will be an opportunity to control the quality of the final development at the point when the reserved matters applications are submitted. There is no reason that the appearance of dwellings could not be sympathetically designed to be in keeping with local typologies that would assimilate well with the existing context. Any future reserved matters application that includes appearance would need to set out the extent to which the development is consistent with the National Design Guide and Kent Design Guide. A condition is recommended to secure a site wide detailed masterplan and associated design code with the first reserved matters submission and subsequent compliance with the approved details.
- 6.70. It is considered that appropriate details can be secured at reserved matters stage in order to ensure that the siting, scale, design, appearance and detail of the scheme represents a high-quality design that is appropriate to its surroundings in accordance with Local Plan Policies CP 4 and DM 14.

### **Trees**

- 6.71. 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.
- 6.72. The application is accompanied by an Arboricultural Impact Assessment which identifies that some category B hedgerow and some small category B Ash and Hawthorn trees will require removal in order to facilitate the development. All other trees on and adjacent to the site will be retained and protected during development.
- 6.73. The Arboricultural Impact Assessment has been reviewed by the Council's Trees Officer who observes that the main arboricultural features on the development area

are existing boundary hedges with sporadic mature trees being mainly Poplar. The proposed indicative layout would retain much of the boundary hedges and trees. If outline planning permission is granted the final detailed layout should be accompanied by an updated and more comprehensive Arboricultural Impact Assessment and Tree Protection Plan in accordance with BS5837:2012.

- 6.74. The Trees Officer welcomes the proposed linear tree planting along the major roads and expansion and enhancement of the boundary plantings. The development should seek to conserve and enhance biodiversity through the final design. The current landscape strategy could be improved through the introduction of small copse/woodland around the boundaries and the use of larger tree species (such as Black Poplar) in the more open public spaces. An updated and more detailed landscape masterplan should be submitted at reserved matters stage (condition 11).
- 6.75. The proposed development is considered acceptable in terms of trees in accordance with Local Plan Policy DM 29.

### **Ecology**

- 6.76. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP 7 and DM 28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 6.77. 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 furthering the general biodiversity objective of conserving and enhancing biodiversity in England. Furthermore, the National Planning Policy Framework states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible'. The National Planning Policy Framework states that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.'
- 6.78. National planning policy aims to conserve and enhance biodiversity, and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".
- 6.79. Local Plan Policy ST 6 (The Isle of Sheppey area strategy) seeks net gains to biodiversity and natural and semi-natural greenspace at development sites and mitigation of impacts on internationally designated sites for biodiversity.
- 6.80. The application is accompanied by a Preliminary Ecological Appraisal (PEA) which identifies the presence or potential for protected and priority habitats and species

within and around the application site and the potential for these features to be adversely affected without appropriate avoidance and mitigation measures. These features include:

- Hedgerows – sections of hedgerow will need to be removed to create site access and the necessary associated sight lines;
- Bats – four trees with potential to support roosting bats were identified in the field surveys. These trees therefore need to be fully protected during construction and on completion of the proposed development;
- Reptiles – habitats around the boundaries of the application site include scrub, tussocky grassland and wet ditches which have a high potential to support common reptile species such as slow worm, common lizard and grass snake. Suitable reptile habitat will need to be removed to create site access and the necessary associated sight lines and a significant area of this habitat is proposed for residential development in the south-west corner of the application site;
- Water Vole – the water-filled ditch habitats on site are suitable for water vole and potential water vole burrows were found during field surveys. Part of the water-filled ditch will be impacted by the creation of the proposed road access from Scocles Road;
- Brown Hare – the habitat on site is suitable for this species;
- Nesting birds – bird nesting was confirmed during field surveys and two male skylarks were heard singing overhead. This indicates that skylarks may be nesting within the application site.

6.81. The PEA concludes that the site is considered to be of low local value for wildlife whilst the vast majority of habitats considered to be of higher value to wildlife on the site can be retained. Overall, the risk of impact to protected species or habitats from the proposed development is identified as negligible. Furthermore, with suitable biodiversity enhancements incorporated into the development it is considered there would be significant scope for the site to achieve a biodiversity net gain. These measures could be secured by condition and through reserved matters of landscaping.

6.82. The KCC Ecology officer raises no objections to the proposal subject to a condition securing an Ecological Mitigation and Management Plan. In order that any retained habitats and those proposed for creation are appropriately managed to ensure their satisfactory establishment and long-term management so that biodiversity conservation objectives are delivered, a condition securing a Landscape and Ecological Management Plan is also sought.

6.83. The assessment identified a negligible risk to great crested newt; however, the KCC Ecology Officer recommends that precautionary methods for working should be adopted to avoid the risk of killing or injury to great crested newts and other amphibians.

6.84. Natural England provided initial comments seeking further information in order to determine the impacts on functionally linked land for non-breeding birds in relation to the Swale Ramsar Site and Special Protection Area (SPA), Outer Thames Estuary SPA and Medway Estuary and Marshes SPA. The applicant responded through the submission of an HSA which concluded that the site does not represent supporting

habitat or functionally linked land to any of the neighbouring SPA or Ramsar sites. The Kent Wildlife Trust subsequently raised concerns regarding the adequacy of the HSA and the applicant has provided Natural England with further information. Natural England have confirmed that they are satisfied that the application site is not supporting habitat or functionally linked land to the SPA or Ramsar sites.

6.85. The Kent Wildlife Trust have raised a series of concerns which are summarised as follows, with officer responses provided:

- Situated to the north of the application site are the Sheppey Cliffs and Foreshore Site of Special Scientific Interest (SSSI) and the Minster Marshes Local Wildlife Site (LWS). Situated to the south of the application site are The Swale SSSI, Special Protection Area (SPA), Ramsar, the Medway Estuary and Marshes SPA and Ramsar, the Elmley National Nature Reserve, and The Swale Estuary Marine Conservation Zone.
- Insufficient information to determine whether the site forms functionally linked land to the relevant designated sites. HSA does not establish that the site is not suitable for the designated features of the SPA and Ramsar. HSA does not collect existing bird data due to an absence of such data and therefore appropriate breeding and wintering bird surveys need to be carried out. *Officer response: the HSA identifies several factors which reduce its suitability as functionally linked land including: tall boundary hedgerows and the undulating nature of the site which reduce its visibility; proximity to residential development; distance from the designated sites and availability of more suitable habitat in the intervening area.*
- Concerns about impacts on any protected and priority species on the adjoining land to the east which shares the application site's characteristics and could be functionally linked to the relevant designated sites - this land should be part of the HSA survey area. *Officer response: The HSA concludes that the land to the east would not represent supporting habitat or functionally linked land largely on the basis that there is more suitable (i.e. largely flat) farmland available close to the designated site.*
- Natural England's most recent comments provide their standing advice which contradicts comments made on 20th June 2022 requesting submission of an HSA - clarification on this from Natural England should be sought prior to determination of the application. *Officer response: Natural England have confirmed that they are satisfied that the application site is not functionally linked land.*
- Insufficient mitigation measures are proposed to address the development's impact on the designated sites due to increased recreational pressures including disturbance of ground nesting birds, trampling of sensitive vegetation and dogs being walked off lead. Concerns at impact of increased cat predation on the designated features of the SSSI, SPA and Ramsar and LWS. *Officer response: these impacts are considered as part of the Appropriate Assessment set out in this report. The Council will secure a financial contribution through a Section 106 agreement to mitigate the impacts of the development.*
- Impacts from increased visitor pressure on Elmley National Nature Reserve are discounted due to the reserve being in private ownership and able to restrict visitor numbers. This does not account for two public footpaths and one public bridleway



that cross the nature reserve or the adjacent public car park. *Officer response: The impacts are not discounted but indicated to be less relevant. In view of the distance of the PRowS and bridleway from the application site it is not considered that the proposed development would result in increased use which would result in adverse impacts upon these PRowS and bridleway.*

- Preliminary Ecological Assessment (PEA) identifies the ditch habitat on site as being suitable for water vole with three potential burrows having been found and therefore surveys should be carried out. It is also not clear whether invertebrate surveys of the ditch habitat have been considered. *Officer response: It is considered that any impacts on water vole and invertebrates can be satisfactorily addressed through the Ecological Mitigation and Management Plan which would be secured by condition.*
- Proposals may impact foraging, commuting and roosting bats and dark corridors, including for commuting bats, are not proposed through the site whilst unsuitable or no habitat is provided across the developed areas. Bats utilising the site will be impacted by light pollution and the lack of dark corridors and bat surveys have not been carried out so the impact on bats cannot be assessed. *Officer response: It is considered that any impacts on bats can be satisfactorily addressed through the Ecological Mitigation and Management Plan which would be secured by condition. A condition is also recommended to secure a Lighting Design for Biodiversity which will address impacts on bats.*
- PEA states that two male skylarks were recorded overhead so may be nesting within the site. Insufficient information has been provided to establish what species are breeding within the site or to mitigate loss of habitat for ground nesting birds and those which forage on arable land. Mitigation for loss of habitat which provides feeding areas for skylark and other farmland birds should be provided. *Officer response: It is considered that any impacts on skylark and other ground nesting birds can be satisfactorily addressed through the Ecological Mitigation and Management Plan which would be secured by condition.*
- Submission does not address impacts on any habitats and species within the adjoining land to the east which could be functionally linked to the designated sites. Cat predation on bird and reptile species may occur whilst a footpath through the land would provide access to dog walkers which may cause disturbance to ground nesting birds. *Officer response: As noted above, the Habitat Suitability Assessment concludes that the land to the east would not represent supporting habitat or functionally linked land largely on the basis that there is more suitable (i.e. largely flat) farmland available close to the designated site.*
- Artificial lighting may impact migratory birds by affecting foraging, migration, orientation, and daily timing of behaviour. Increased lighting also increases predation by enabling birds of prey to hunt later into the night. Submission does not propose mitigation such as the creation of a dark corridor along the eastern boundary. A wildlife sensitive lighting design scheme should be required by condition and provided at the reserved matters stage in the event planning permission is granted. *Officer response: A condition is recommended to secure a Lighting Design for Biodiversity which will address these comments.*

- Submission does not indicate biodiversity enhancement and the development should ensure that impacts to protected and priority species habitat are mitigated, and that habitat creation and enhancement is realistic and deliverable. Any habitats created to achieve a net gain which are situated within areas provided for residential amenity would be subject to recreational and site management pressures therefore further details on habitat creation and enhancement measures and site management should be provided. *Officer response: These matters will be addressed through the Biodiversity Enhancement Plan which will be secured by condition.*

### **Biodiversity**

- 6.86. The application was submitted before Biodiversity Net Gain became a mandatory requirement. The KCC Ecology Officer notes that the proposals identify the potential to create new habitats around the site boundaries which could significantly improve the biodiversity value of the application site from its current predominantly low value arable use. It is advised that details of how the proposed development will compensate for the loss of important habitats such as hedgerows and deliver the required biodiversity net gain should be sought. A condition securing a Biodiversity Enhancement Plan is recommended.
- 6.87. Accordingly, it is considered that the proposal accords with Local Plan Policy DM 28 which requires 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.

### **Habitat Regulations**

- 6.88. The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale SPA, and Wetland of International Importance under the Ramsar Convention (Ramsar Site) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
- 6.89. SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 6.90. The proposal would result in up to 650 residential dwellings on the site which would be anticipated to result in impacts to the SPA and Ramsar sites from increased recreational disturbance. Due to the scale of the development there is insufficient scope to provide on site mitigation and in such circumstances off site mitigation is normally required by means of developer contributions at the rate of £328.27 per dwelling. The proposal would therefore give rise to a requirement for a contribution of £213,375.50 which would be secured through a Section 106 agreement. In accordance with the Conservation of Habitats and Species Regulations 2017, for completeness an Appropriate Assessment has been completed and is set out below.

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

- 6.91. This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.
- 6.92. The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 6.93. In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.
- 6.94. The recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site." The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.
- 6.95. However, in view of the scale of the development it is considered that and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to appropriate mitigation measures.
- 6.96. Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation should be in place before dwellings are occupied.
- 6.97. Due to the scale and location of the development it is not considered that there is scope to provide on-site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- 6.98. Based on the correspondence with Natural England, I conclude that off-site mitigation is required.
- 6.99. In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures can be implemented within the SPA from collection of the standard SAMMS tariff will ensure that these impacts will not be significant or long-term. I therefore consider that any adverse effect on the integrity of the SPA can be satisfactorily addressed through mitigation measures.

## Transport and Highways

- 6.100. 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.”*

- 6.101. The NPPF also states that:

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

- 6.102. Local Plan policy DM 6 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.

- 6.103. The application seeks detailed approval of access arrangements and two vehicular accesses into the site are proposed. The primary access involves a new three-arm roundabout onto the A2500 located approximately 200m to the east of the Scocles Road/A2500 junction which would require a localised realignment of the A2500 approximately 25m northwards. The second access point to the development is proposed towards the north-west corner of the site from a new eastern arm to the Thistle Hill Way/Scocles Road roundabout. This would also serve as the main multi-modal connection to the existing Thistle Hill residential area to the west of Scocles Road which provides a range of services and amenities as identified at paragraph 1.4.

- 6.104. A footway will be provided on the eastern side of Scocles Road between the Thistle Hill Way roundabout and Elm Lane connecting to the footway recently delivered through the development at The Slips. Pedestrian and cycle paths would provide further links to the existing Thistle Hill development on the opposite side of Scocles Road. A footway is also indicated along the northern side of Lower Road along the site frontage. The KCC Highways Officer suggests that this should be provided as a shared use footway/cycleway which could then link with a shared use footway/cycleway proposed by the Council’s Active Travel Co-ordinator through the Thistle Hill Community Woodland. This would run parallel to Lower Road and link with the existing footway/cycleway at the junction of Lower Road and Thistle Hill Way to promote active travel choices to Queenborough and Neats Court where a range of employment and retail is located. The Council’s Active Travel Co-ordinator welcomes the provision of the footway/cycleway through the community woodland and an indicative cost of £132,000 has been calculated; however, a more accurate costing would involve detailed surveys and design work. The applicant has indicated a willingness, in principle, to meeting the cost of these works which would serve to mitigate some of the highways impacts of the scheme and promote active and sustainable travel choices. The infrastructure would be secured by condition or through a Section 106 agreement, subject to confirming the ownership of the land.

- 6.105. The applicant has developed a transport strategy for the scheme which has involved discussions with National Highways. Highways modelling has been undertaken to assess the impacts of the proposal on the wider highways network and inform mitigation proposals.
- 6.106. The Transport Assessment identifies that the proposed development will increase congestion on the wider highways network giving rise to a requirement for mitigation measures. Accordingly, works to increase capacity at road junctions are proposed as follows:
- A2500 Lower Road / Barton Hill Drive roundabout – geometric changes to the entry radii on the A2500 Lower Road arms;
  - A249 Sheppey Crossing / A2500 Lower Road roundabout – bypass lanes for the eastbound A249 onto the A2500 Lower Road roundabout and the southbound A249 movement from the A2500 Lower Road roundabout.
- 6.107. The application is accompanied by a Public Transport Strategy which identifies a preferred option involving a new local bus service with a route from the development to Tesco in Sheerness with a timetable aligned with train services to and from Sheerness Railway Station. KCC Highways advise that funding for the service should be secured for a minimum of 4 years to allow patronage to grow as the development builds out.
- 6.108. The Transport Assessment sets out a Transport Vision which includes the provision of a Car Club and remote working facilities within the Community Hub.
- 6.109. National Highways have considered the proposals, and in particular the impacts of the development upon the capacity of the A2500 Lower Road and the applicant's proposals to increase capacity on Lower Road. National Highways raise no objections to the proposal subject to conditions securing the following:
- Details of a 'Monitor and Manage Mitigation Strategy' which will set out a methodology to determine the actual traffic impact of the completed dwellings in terms of traffic flow changes, changes to road safety risk, and changes in traffic conditions (queue lengths and delays) on the SRN upon the occupation of the 250th dwelling. The information will be used to confirm that:
    - agreed mitigation for the A249/A2500 Roundabout remains necessary, or
    - an alternative scheme of mitigation for the A249/A2500 Roundabout is necessary and appropriate to safely accommodate the traffic generation of the remainder of the development beyond the 325th dwelling, or
    - the traffic generation of more than 325 dwellings can be safely accommodated by the existing A249/A2500 Roundabout layout and if so, the number of occupations that, on the basis of the monitoring data and up-to-date transport evidence, renders the agreed mitigation necessary. In this case, the monitoring process shall be repeated on the occupation of the Xth dwelling, X being the revised number of permitted occupations prior to mitigation becoming necessary minus 75, or

- the traffic generation of the full development can be safely accommodated by the existing A249/A2500 Roundabout layout and therefore the agreed mitigation is no longer needed.
- Completion of improvement works to the A249/A2500 roundabout prior to the construction of the 326<sup>th</sup> dwelling;
- Approval of a full Travel Plan;
- Construction Management Plan.

6.110. KCC Highways raise no objections to the proposals and provide the following comments:

- It is considered that the applicant has demonstrated that traffic associated with the proposed development can be accommodated on the highway network, and where there would be areas of congestion its impact can also be mitigated to provide overall betterment.
- It is noted that National Highways have requested a 'monitor and manage' condition to inform the delivery of highway improvements. Provided KCC is included in the review group to consider the impact on the local highway network and input into the approval, this is acceptable.
- Walking and cycling routes to link the development to the wider area and its amenities can be achieved and delivery of these will need to be coordinated with the phasing of the development.
- The proposed roundabouts onto Scocles Road and Lower Road are considered suitable for access to the development, though use of the Scocles Road roundabout should be restricted to serving a maximum of 300 dwellings only until the connection has been made through to the proposed Lower Road roundabout.
- A new bus service can be provided to cater for the development and enhance the offer to existing communities, and the developer would be expected to fund this in full for a period of 4 years.
- Financial contribution to meet the full cost of running the bus service for a minimum of 4 years and Sustainable Travel Vouchers for each dwelling should be secured through a Section 106 agreement.
- Conditions are requested to secure the following:
  - No dwelling to be occupied until the off-site highway works to the A2500 Lower Road / Barton Hill Drive roundabout have been constructed.
  - No more than 300 dwellings hereby approved shall be occupied until vehicle accesses onto Scocles Road and the A2500 Lower Road, and a spine road connecting the two have been constructed and opened for use.
  - Prior to the occupation of any dwelling accessed from Scocles Road, a footway measuring at least 2m in width shall be constructed on the eastern side of Scocles Road between Thistle Hill Way and Elm Lane.
  - Prior to the occupation of any dwelling accessed from Lower Road, a 3m wide shared use footway/cycleway shall be constructed alongside Lower Road and extending to Scocles Road.
  - Prior to the occupation of any dwelling accessed from Lower Road, off-site works to construct a 3m wide shared use footway/cycleway between the

existing provision at the junction of Lower Road and Thistle Hill Way to the junction of Lower Road and Scocles Road shall be carried out.

- Prior to the commencement of development a phasing plan and details of footway connections linking pedestrian routes within the development to Queen Anne Close and the southern boundary of Scocles Court shall be approved by the Local Planning Authority and constructed in accordance with the approved specification and phasing plan.
- Approval of a Construction Traffic Management Plan
- No dwelling to be occupied until vehicle parking and turning space has been provided, surfaced and drained to the satisfaction of the Local Planning Authority.
- Approval of full details of the electric vehicle charging and provision prior to occupation of each dwelling.
- Approval of cycle storage and provision prior to the occupation of each dwelling.
- Estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture to be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority.
- Completion of relevant highways works to serve each dwelling prior to its occupation.
- Approval and implementation of a Travel Plan.

6.111. In view of the above, the proposal would sufficiently accord with the requirements of Local Plan Policy ST6 (The Isle of Sheppey area strategy) which requires that larger scale development proposals will, as appropriate, be well located in respect of the most accessible parts of the Island to both car and public transport and, where appropriate, bring forward improvements to the A2500 Lower Road. It will also accord with Policy DM6 which requires improvements to the highways network where new development would result in traffic generation in excess of its capacity.

6.112. It is further considered that the proposal would sufficiently address the NPPF requirement to promote sustainable patterns of development and actively manage patterns of growth to make the fullest use of public transport, walking and cycling. It has been demonstrated that the proposal would not result in unacceptable impacts on highway safety or severe residual cumulative impacts on the road network which the NPPF states would warrant refusal of planning permission.

### **Public Rights of Way**

6.113. The KCC PROW and Access Officer advises that there are no PROWs directly affected within the site, however there are important routes adjacent to the site which provide access to local facilities, amenities and the wider PROW network. No objections are raised to the application; however, a financial contribution of £48,925 (index linked) is requested to mitigate the increased use of the PROW network.

- 6.114. Public Footpaths ZS9 and ZS10 run west from Scocles Road, immediately opposite the development site, provide direct links to the Community Hospital and the Thistle Hill Academy School, other community facilities and onward connectivity. £43,300 is sought to fund surface improvements, culvert repairs and a replacement 10m bridge to public footpath ZS9 and £5,625 is sought to fund surface improvements to public footpath ZS10.
- 6.115. The KCC PRoW and Access Officer advises that consideration should be given to pedestrian crossings over Scocles Road to connect the development directly to footpaths ZS9 and ZS10, with signed links out of the site to aid this direct connectivity. Safety concerns regarding the increase of vehicular traffic on Scocles Road would be raised if no crossings were in place. These crossings will be secured through condition No. 29.
- 6.116. KCC PRoW and Access consider there would also be a negative impact on the landscape and visual amenity of the wider network, ZS5, ZS6, ZS8, and ZS31. There is also the route of the new National Trail, the England Coast Path, on the mainland to the south. The mitigation suggested within the application of planting giving a low/neutral effect on the wider PROW network in ten years' time would not address the impact sufficiently. The developer contributions sought would mitigate this loss of landscape and visual amenity if planning permission were granted.

### **Car and Cycle Parking**

- 6.117. The Swale Car Parking SPD includes recommended residential car parking standards. Details of car parking to individual units will be assessed at reserved matters stage. However, the indicative Masterplan provides sufficient details of car parking to demonstrate that a reserved matters scheme could be brought forward which provides adequate car parking provision to comply with the recommended standards. Accordingly, the proposal can comply with Local Plan Policy DM 7 requirement for compliance with the Swale Vehicle Parking SPD.
- 6.118. The application advises that cycle parking will be provided in accordance with policy requirements and this will be addressed at the detailed application stage. It is anticipated that cycle parking will be provided within sheds/stores to the houses and within dedicated facilities within the flatted blocks. Accordingly, the proposal can comply with the requirement of Policy DM 7 to provide cycle parking facilities of an appropriate design and in a convenient, safe, secure and sheltered location.

### **Air Quality**

- 6.119. 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.
- 6.120. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by,



inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.

- 6.121. The Planning Practice Guidance on Air Quality states that *“whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”*.
- 6.122. The application is accompanied by an Air Quality Assessment (AQA) which considers potential air quality impacts associated with the construction and operation of the development. The AQA identifies that there is potential for air quality impacts as a result of construction stage dust emissions which can be satisfactorily mitigated through good practice measures. Operational stage air quality impacts from traffic exhaust emissions were predicted to be negligible at all sensitive receptor locations. Accordingly, the AQA identifies that air quality is not considered a constraint to the proposed development.
- 6.123. The AQA has been reviewed by the Council’s Environmental Health Officer who raises no objections to the proposed development in terms of air quality subject to a condition securing a Construction Method Statement setting out construction stage dust control measures. Accordingly, the proposed development is considered to satisfy Local Plan Policy DM 6 which requires that development proposals 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.

**Open Space, Sport and Recreation**

- 6.124. Policy Local Plan Policy CP7 requires developments to promote the expansion of Swale’s natural assets and green infrastructure. Policy DM17 of the Local Plan sets out that new housing development should make provision for appropriate outdoor recreation and play space proportionate to the likely number of people who will live there. Policy DM17 sets out various open space typologies and the amounts of space that would be required for residential development. The Council’s Greenspaces Manager has confirmed that there will be no requirement for open space, sport and recreation arising from the proposed extra care housing having regard to the profile of the residents and the trip free and safe green space which serve the extra care block. The table below compares the proposal to the open space requirements.

Typology	Policy DM17 requirement (ha per 1,000 person)	Scheme requirement (ha)	Proposed (ha)	Difference (ha)
Parks and gardens	1.11	1.47	0.87	-0.60

Natural and semi natural greenspace	4.36	5.81	6.75	+0.94
Formal outdoor sport	1.09	1.45	0.90	-0.55
Amenity Greenspace	0.45	0.60	0.70	+0.10
Provision for children and young people	0.24	0.32	0.13	-0.19
Formal Play facilities			on site	
Allotments	0.2	0.27	0.36	+0.09
<b>Total</b>		<b>9.92</b>	<b>9.71</b>	<b>-0.21</b>

6.125. As the table above shows, there is a shortfall in the parks and gardens typology, provision for children and young people and the formal outdoor sport provision. There is a surplus of natural and semi-natural green space, amenity green space and allotments. It is noted that residents of the site would benefit from the Thistle Hill Community Woodland to the west of the site.

6.126. The Council's Open Spaces and Play Area Strategy sets out a requirement for financial contributions towards off-site formal sports facilities and off-site play/fitness facilities. In view of the on-site provision, details of which would be secured at reserved matters stage, the Council's Green Spaces Manager has advised that financial contributions will not be sought, subject to securing sports facilities which meet Sport England specifications (condition 50).

6.127. The overall provision of open space and sport and recreation facilities within the scheme is close to meeting the requirements set out in the Council's Open Spaces and Play Area Strategy, albeit there are some shortfalls and surpluses amongst the typologies. The Council's Green Spaces Manager confirms that no objections are raised in terms of open space, sports and recreation provision. Therefore, having regard to the overall on-site provision as well as the proximity of existing public open space, the proposal is acceptable in terms of open space and is therefore in accordance with Policy DM 17 of the Local Plan.

### **Community Infrastructure**

6.128. The National Planning Policy Framework attaches importance to ensuring that a sufficient choice of school places are available to meet the needs of existing and new communities. This is reflected in Policies CP 5 and CP6 of the Local Plan, which set out that provision shall be made to accommodate local community services, social care and health facilities within new developments.

6.129. It is critical that necessary social and other infrastructure to support the future population occupying the site is delivered in a time frame that ensures infrastructure is in place when it is required.

6.130. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure

Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is:

- Necessary
- Related to the development
- Reasonably related in scale and kind.

6.131. The following planning obligations would be necessary to mitigate the impact of the development and make it acceptable in planning terms. The obligations have been identified and assessed by Officers to comply with the Regulations (as amended).

<b>Requirement</b>	<b>Value</b>	<b>Towards</b>
<b>Ecology</b>		
SAMMS payment	£328.27 per dwelling	North Kent Strategic Access Management and Monitoring Strategy.
<b>Education</b>		
Secondary Education Contribution	£2,814,547.45	Towards additional Secondary School places to be provided at the new NW Sittingbourne allocated (MU1) site and/or at the Borden or Highsted Grammar schools.*
Special Educational Needs (SEND) Contribution	£559.83 per applicable house and £139.96 per applicable flat**	Special Education Needs (SEND) contribution to be applied towards additional places in Swale district.
Special Education Needs (SEND) School	£273.87 per applicable house and £67.22 per applicable flat	Proportionate financial contribution towards the provision of a new SEND school site.
Community Learning	£22,236.50 (£34.21 per dwelling)	Financial contribution towards additional equipment and resources at Adult Education Centres including at Sheerness and outreach provision to increase capacity in the service.
<b>Community</b>		
Integrated Children's Services	£41,468.00 (£74.05 per dwelling - excluding extra care units)	Financial contribution additional equipment and resources for the Integrated Children's Services in Swale including outreach provision.
Library Service	£40,709.50 (£62.63 per dwelling)	Financial contribution towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including at Minster.

Adult Social Care	£117,572.00 (£180.88 per dwelling)	Financial contribution towards specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting community facilities, sensory facilities, and Changing Places within Swale.
Waste		
Refuse	£126,184.50 (£194.13 per dwelling)	Financial contribution towards additional capacity at the Sheerness or Sittingbourne Household Waste Recycling Centre and Sittingbourne Waste Transfer Station.
Refuse and Recycling Bins	<u>Each house</u> 180ltr green bin for refuse £51.20 240ltr blue bin for recycling £51.20 23ltr food bin £11.90 5ltr food caddy £6 <u>Each 5 Flats with a block</u> 1100ltr refuse - £497 1100ltr recycling - £497 140ltr food - £45.20 <u>Each flat</u> 5ltr food caddy £6	Bin provision
Health care		
NHS (Integrated Care Board)	£675,792.00	Financial contribution towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.
Highways and transportation		
Pedestrian links	Best endeavours to secure Section 278 works with highways authority	Pedestrian links across Scocles Road to Scocles Court / Scocles Farm and Queen Anne Close
Footway/cycleway	£132,000 (estimated) subject to more detailed survey	Contribution towards construction of a multi-user path between Scocles Road and Thistle Hill

		Way, through the Thistle Hill Community Woodland running parallel to Lower Road***
Bus Service	Best endeavours to secure service with local operator	Financial contribution to meet the full cost of running the bus service stated in the Public Transport Strategy for a minimum of 4 years
Sustainable Travel Vouchers	£350 per dwelling	Sustainable Travel Vouchers for each dwelling to the value of £350 to be used on either bus travel, train travel or the purchase of a bicycle.
<b>Public Rights of Way (PRoW)</b>		
Public Rights of Way	£48,925.00 (Index linked)	Mitigation of increased use of PRoW network and impacts on landscape and visual amenity of the wider network.
<b>Affordable Housing</b>		
Affordable housing	Provision of 25% affordable housing (Option A) or 41.5% affordable housing (Option B)	Affordable housing, including extra care housing.
<b>Monitoring</b>		
Monitoring fee	Amount to be agreed with SBC Legal Services and KCC Infrastructure based upon the obligations being secured	Contribution to cover the cost of monitoring the delivery of various planning obligations

\*Kent County Council in its capacity as education provider, has a duty to ensure that adequate school places are provided to accommodate current and future projections for primary school and secondary needs. Currently there is no Primary school requirement.

\*\*Applicable excludes 1 bed units of less than 56sqm (GIA) and the extra care housing.

\*\*\* Subject to confirmation of land ownership this could potentially be dealt with through condition No. 27 securing off-site works to deliver the multi-use path.

- 6.135. Subject to securing the obligations, the application would accord with Policies CP5, CP6, DM8, DM17 and DM28 of the Local Plan.

### **Flood Risk, Drainage and Surface Water**

- 6.136. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in Policy DM 21 of the Local Plan.
- 6.137. The application site lies within Flood Zone 1, meaning it is an area with a low probability of river or sea flooding. Planning Practice Guidance confirms that the aim is to steer new development to Flood Zone 1. In respect of the Flood Risk Vulnerability Classification residential dwellings are classified as 'more vulnerable'. Within Flood Zone 1, Table 3 of the Planning Practice Guidance confirms that 'more vulnerable'

uses in Flood Zone 1 are appropriate and an exception test is not required. As the application site is greater than 1 ha a Flood Risk Assessment (FRA) is required.

- 6.138. The application is accompanied by a Flood Risk Assessment and Outline Drainage Strategy which proposes surface water drainage measures including water butts to individual properties, swales and 5 attenuation ponds which will discharge into the adjacent ditch network at greenfield run-off rates.
- 6.139. KCC Drainage have reviewed the proposals and raise no objections to the proposals subject to conditions.
- 6.140. Southern Water raise no objections in relation to surface water drainage subject to an informative relating to maintenance and/or adoption by Southern Water of SUDS infrastructure.
- 6.141. Lower Medway Internal Drainage Board advise that they have responsibility for maintenance of the watercourses that will receive the surface water discharge from the site. The Board have made representations which include the following points:
- Adequate access to the watercourses for maintenance purposes must be maintained.
  - Access from Scocles Road will require a watercourse to be bridged over and the design principles should be agreed with the board.
  - The Board would expect habitat compensation and biodiversity net gain of 10%.
  - The outfall structures to the watercourses will require land drainage consent which will be conditional upon a Surface Water Development Contribution Fee.
  - SuDS features for surface water storage are welcomed as they also provide pollution control; amenity; and habitat. Above ground storage is encouraged as it is easier to maintain.
  - Detailed surface water drainage proposals with maintenance and management proposals as well as flood resilience measures along the watercourse corridors and land low spots should be secured by condition.
- 6.142. In view of the above it is anticipated that the proposals will satisfy the requirements of Local Plan Policy DM21 to include sustainable drainage systems to restrict runoff to an appropriate discharge rate, maintain or improve the quality of the receiving watercourse, enhance biodiversity and amenity and increase the potential for grey water recycling. It is therefore considered that the proposals are in accordance with Policy DM 21 of the Local Plan and the NPPF.

### **Contamination**

- 6.143. The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.
- 6.144. The application is accompanied by a Desk Study Report which provides a geo-environmental risk assessment. The study concludes that the risk to human health from any ground contamination is negligible and recommends ground investigation works prior to the commencement of development.

- 6.145. The Council's Environmental Health Officer has reviewed the Desk Study Report and advises that it is satisfactory. A watching brief condition is recommended to deal with any unforeseen ground contamination during construction works.
- 6.146. Accordingly, the proposals are considered acceptable in relation to contamination and are therefore in accordance with the Local Plan and the NPPF.

### **Living Conditions**

#### *Existing residents*

- 6.147. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 6.148. The application seeks outline planning permission and accordingly the masterplan layout is indicative only and subject to change at the detailed stage. However, the indicative masterplan layout indicates that the proposed development could be accommodated within the site without any undue harm to the residential amenities of the occupants of nearby dwellings by reason of overlooking, loss of daylight and/or sunlight, visual impact and noise and disturbance.

#### *Future residents*

- 6.149. New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government's minimum internal space standards for new dwellings.
- 6.150. As noted above, the masterplan layout is indicative only. However, the layout demonstrates that 650 residential dwellings could be satisfactorily accommodated on the site whilst providing adequate separation between dwellings to ensure adequate outlook and privacy for occupants of the dwellings.
- 6.151. Approval of the detailed internal layouts of the proposed accommodation is not sought at this stage. However, the indicative masterplan is considered to demonstrate adequate space to accommodate dwellings which would provide an appropriate standard of internal accommodation subject to details to be submitted at reserved matters stage.
- 6.152. The indicative masterplan layout demonstrates that adequate private amenity space in the form of rear gardens could be provided for the proposed houses. It is recommended that relevant permitted development rights are removed to ensure that adequate private amenity space to the dwellings is maintained.
- 6.153. The indicative masterplan indicates that the site could accommodate a development which is acceptable in terms of the living conditions of both future occupiers and the occupiers of existing nearby residential properties. The proposal is therefore considered to be in accordance with the Local Plan and the NPPF.

### **Sustainability / Energy**

- 6.154. Policy DM 19 of the Local Plan requires development proposals to include measures to address climate change. Details of sustainable design and construction measures

to minimise environmental impacts can be secured at detailed stage and may include measures such as electric vehicle charging points (provision of one per dwelling); solar panels; passive energy measures; and/or low NOx boilers as examples.

- 6.155. Non-residential buildings under 1000m<sup>2</sup> (GIA) within the scheme will be expected to achieve BREEAM 'Good' standard or equivalent as a minimum whilst non-residential developments over 1,000m<sup>2</sup> (GIA) should achieve BREEAM 'Very Good'. Compliance with the relevant BREEAM standards can be secured by condition.
- 6.156. The Council's Climate Change Officer notes that there is no reference to sustainability in any of the relevant documents. However, it is noted that the application seeks outline planning permission and further detail would be anticipated at reserved matters stage. It is also noted that the Future Homes standard, which will become mandatory in 2025, would ensure that the development achieves appropriate standards in terms of energy efficiency and carbon reduction. Conditions are requested to secure sustainable design and energy efficiency measures and details of measures to reduce water consumption.
- 6.157. In view of the above the proposed development is considered acceptable in relation to sustainability and energy and is in accordance with Local Plan Policy DM 19.

#### **Noise**

- 6.158. The NPPF states that planning decisions should ensure that noise from new development is mitigated and potential adverse impacts are reduced to a minimum.
- 6.159. The application is accompanied by an Acoustic Assessment which identifies the need for certain mitigation measures to be incorporated into the development and recommends suitable façade constructions and ventilation elements that will need to be provided. The Council's Environmental Health Officer advises that compliance with the recommendations in the assessment should be secured through condition. The final detailed housing layout proposed will necessitate a further acoustic review to reflect any changes made which should also be secured through the condition (No. 49).
- 6.160. In view of the above the proposed development is considered acceptable in terms of noise and in accordance with the provisions of the NPPF.

#### **Other matters**

- 6.161. The site is unencumbered by mineral designations and KCC have made no comments in relation to minerals.
- 6.162. The application will need to accord with the latest Secure by Design requirements, and this will need to be appropriately detailed in the reserved matters submission documents.
- 6.163. In terms of water supply and sewerage, Southern Water note that the proposed development will lie over an existing 315mm public water distribution main and 12 inch water trunk main, which will not be acceptable to Southern Water. The exact position of the public apparatus must be determined before the layout of the proposed development is finalised. It might be possible to divert the water main, so long as this



would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions. The applicant has advised that the water mains have been identified from the outset by the design team and some diversion will be necessary and the extent of this will be determined at detailed design stage. It is envisaged that the diversion will be made into the landscaping buffer and in other publicly accessible areas of the site such as road infrastructure to ensure they are maintainable post adoption by the relevant bodies.

- 6.164. Southern Water have requested conditions and informatives relating to the diversion of the water main, water supply and delivery of sufficient sewerage infrastructure to serve the development.

### **The Planning Balance**

- 6.165. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Under s70(2) of the Town and Country Planning Act 1990, the decision-maker needs to have regard to the provisions of the development plan and any other material considerations.
- 6.166. The Council can demonstrate a 4.1 year supply of housing. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the 'Tilted Balance' in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused. It is therefore necessary to consider the benefits and disbenefits of the proposal in order to determine whether there are adverse impacts which would justify a refusal of planning permission.
- 6.167. It is considered that the proposal will result in disbenefits arising from conflict with Local Plan Policies ST1, ST3, ST 6 and DM 24.
- 6.168. Officers consider that the proposed development would deliver the following benefits:
- Housing and affordable housing
  - Infrastructure needed to support the new communities including community facilities
  - Employment and economic activity
  - Open space and sports facilities
  - Ecology and biodiversity
  - Design and appearance
  - Sustainability and carbon reduction
  - Transport
  - Local finance considerations.

### **Benefits**

Housing and affordable housing

6.169. The erection of 650 dwellings, including 41.5% affordable housing to address a pressing need, would contribute towards addressing the lack of 5-year housing land supply within the borough. Given the Framework's general imperative to boost the supply of housing, this is an important factor weighing in favour of the application. As set out at paragraph 6.31-6.32 above, the delivery of 14.5% affordable housing will not be firmly secured through the Section 106 agreement therefore in acknowledgement of a degree some risk around its delivery significant weight is afforded to the benefit arising from this proportion of the affordable housing. However, overall, it is considered that the delivery of housing and affordable housing is a benefit which should be afforded **substantial weight**.

#### Infrastructure needed to support the new communities including community facilities

6.170. The need for the proposed community uses is only driven by the future population that could be expected to be living on the site (if approved). While the proposed community uses may provide a closer option for some existing nearby residents, they are primarily necessary to mitigate the impacts of the proposed development. If they were not provided on site, planning obligations would need to be secured to ensure additional capacity was provided elsewhere to meet the needs of the development. Without the mitigation, the housing proposals would be unacceptable. It is therefore considered that the community facilities should be afforded **limited weight** in the planning balance.

#### Employment and economic activity

6.171. New residents who will use local services and facilities and facilitate potential future growth opportunities which meet the economic and social objectives of sustainable development at paragraph 8 of the NPPF.

6.172. The development would bring forward jobs and spending during the construction phase. Paragraph 81 of the NPPF advises that significant weight should be placed on the benefit a scheme offers in supporting economic growth and productivity; however, this weight is moderated on the basis that these benefits will be limited to the construction phase. Overall, **moderate weight** is afforded to the employment and economic activity benefits of the development.

#### Open space and sports facilities

6.173. The provision of public open space and recreation areas within the proposed development is a normal planning requirement of good place-making and to mitigate impacts of the development and is therefore attributed **limited weight** in the planning balance.

#### Ecology and Biodiversity

6.174. Whilst landscaping is a reserved matter, the indicative plans and documents show that the emerging proposals would provide suitable landscaping and planting in and around the site (subject to details being secured at the reserved matters stage) which would provide ecological and biodiversity enhancements. This is a normal planning requirement and is therefore attributed **limited weight** in the planning balance.

### Design and appearance

- 6.175. As an Outline application, matters of layout, scale, appearance and landscaping are not for determination. However, the application includes an indicative Masterplan layout and a Design and Access Statement which demonstrate how the site could be developed to deliver a high quality and distinctive development and **limited weight** is afforded to this benefit.

### Sustainability and carbon reduction

- 6.176. The proposed development would comply with Local Plan policy and Building Regulations requirements in respect of sustainability and energy consumption which would be a normal planning and Building Regulation requirement. Accordingly, **limited weight** can be afforded to this benefit.

### Transport

- 6.177. The proposals involve off-site highways improvements and the implementation of a new local bus route with funding provided by the developer during the initial years.
- 6.178. The transport improvements are primarily required to mitigate the impacts of the development on the local road network. However, the improvements will also deliver wider public benefits in the form of more efficient highways infrastructure and additional bus services between the site and Sheerness. Accordingly, **moderate weight** can be afforded to these benefits.

### Economic benefits

- 6.179. The Town and Country Planning Act 1990 sets out general considerations in the determination of applications states the following:

*“In dealing with an application the authority shall have regard to*

- (a) the provisions of the development plan, as far as material to the application,*  
*(b) any local finance considerations, as far as material to the application, and*  
*(c) any other material considerations.”*

- 6.180. The application proposes 650 new dwellings with associated Council tax being received from occupiers and able to be used by the Borough to carry out its statutory functions. The funding is needed to mitigate the impacts of the development and **limited weight** is afforded to this benefit in the planning balance.

### Heritage impacts

- 6.181. As is set out in the Heritage section of this report, the development would result in harm to the setting of the Grade II listed Scocles Court. The level of harm is considered to amount to a medium level of ‘less than substantial’ harm. Even in cases where the heritage harm falls in the ‘less than substantial’ category, as is the case here, this still requires being given great weight and importance in the planning balance.
- 6.182. Officers have been mindful of the statutory duty to do no harm and have placed great weight and importance on the fact that less than substantial harm would be caused to the designated heritage asset.

- 6.183. The proposal would bring forward public benefits identified in this section including the delivery of housing which is afforded substantial weight. The proposal would bring forward employment and economic benefits and transport improvements which are public benefits afforded moderate weight. The further benefits identified above are also considered to represent public benefits which would be afforded limited weight.
- 6.184. In light of the benefits identified, in particular the substantial benefit arising from the delivery of housing, and given the medium degree of less than substantial harm to the Grade II listed Scocles Court it is considered that the public benefits are sufficient to outweigh the heritage harm. Officers are therefore of the view that the proposals are in accordance with Local Plan Policies CP8 and DM32 and the provisions of the NPPF.
- 6.185. In considering the impact of this proposal on designated heritage assets, officers have had regard to the Council's obligations pursuant to s16, s66 and s72 of the Planning (Listed Building and Conservation Areas Act) 1990.

#### Planning balance – conclusion

- 6.186. The above assessment identifies a series of benefits which weigh in favour of the proposal. In particular, the delivery of 650 units of housing including 41.5% affordable housing is considered to be a benefit which can be afforded substantial weight overall, noting that significant weight afforded to 16.5% of the affordable housing as set out above. The benefits identified above are considered to substantially outweigh the identified moderate degree of harm which will arise from conflict with Local Plan Policies ST 1, ST 3, ST 6 and DM 24. Accordingly, the proposal is considered acceptable, and it is recommended that planning permission be granted subject to conditions and the prior completion of a Section 106 agreement.

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

#### CONDITIONS

##### **1. Reserved Matters**

Details relating to the appearance, landscaping, layout, and scale of the proposed dwelling(s) (hereinafter called the 'reserved matters') shall be submitted to and approved by the Local Planning Authority before any development is commenced and the development shall be carried out as approved.

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

##### **2. Time Limit – Reserved Matters**

The first application for approval of reserved matters referred to in Condition (1) must be made to the local planning authority no later than the expiration of 12 months beginning with the date of the grant of outline planning permission.

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

##### **3. Reserved Matters**

The first phase of development to which this permission relates must be begun not later than the expiration of 12 months from the final approval of the relevant reserved matters.

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

#### **4. Phasing**

No development shall take place until a Phasing Plan, which shall include justification for the proposed Phases, demonstrate the timescale for the delivery of the development and include the order of the delivery of the proposed phases, has been submitted to and approved in writing by the local planning authority. The phasing of the development shall not be carried out otherwise than in accordance with the approved plan.

All reserved matters submissions shall be in accordance with the Phasing Plan as approved by the Local Planning Authority, unless otherwise agreed with the Local Planning Authority. Any references to a Phase of the development within this permission shall be taken to be a reference to phases as identified within the Phasing Plan submitted under this condition.

Reason: To ensure the development proceeds in a satisfactory manner. 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.

#### **5. Approved Plans**

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

SCP/220758/D10 Rev. E Potential Traffic Improvements at A249/A500 Roundabout  
SCP/220758/D09 Rev. D Potential Segregated Northbound Lane at A249/A500 Roundabout  
SCP/220758/D08 Rev. E Potential Segregated Southbound Lane at A249/A2500 Roundabout  
SCP/220758/D11 Assessment of Land Ownership Impact  
03/001 Proposed Access Strategy Access Road onto Scocles Road 35m ICD Roundabout  
03/002 Proposed Access Strategy Main Access onto A2500 40m ICD Roundabout  
03/003 Rev. B Proposed Access Strategy Potential A249/A2500 Roundabout Improvement Option  
Parameters Plan BG/SRM/PP/01.

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with this application.

#### **6. Levels**

Any reserved matters application(s) which covers the matter of 'scale' shall include a detailed levels survey of the site and cross sections showing:

- Existing ground levels on site (spot heights) including a datum point that is located off site. Levels should be Above Ordnance Datum (AOD).
- The level of the roads outside the site. (AOD)
- The proposed levels on site following completion of the development (for each existing height a proposed height should be identified).
- The location and type of any retaining structures needed to support ground level changes.
- Finished Floor Levels for proposed buildings.
- The information supplied should clearly identify if land levels are being raised or lowered.

Reason: Understanding level changes and finished floor levels is necessary to ensure that the work is carried out at suitable levels in the interests of the character and appearance of the area, to safeguard wider views, and protect residential amenities.

## **7. Landscaping**

Any reserved matters application(s) which covers the matter of 'Landscaping' shall include:

- Plans, drawings, sections, and specifications to explain full details of the hard and soft landscaping treatment and works including: planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes, numbers and densities where appropriate, materials (size, type and colour), proposed drainage arrangements, children's play equipment, street furniture, lighting columns, private and communal areas, opens spaces, edges, boundary treatments, public rights of way and roads;
- Tree planting details (including street trees and hedge rows) and specification of all planting in hard and soft landscaped areas, to include provision for advanced planting to the northern and southern boundary of the site.
- The open space details shall demonstrate that there will be no Sustainable Urban Drainage Systems located within private gardens or play areas.
- Details of the programme for implementing and completing the planting.
- An Arboricultural Method Statement produced in accordance with BS5837.
- A Tree Protection Plan showing trees that would be retained and the arrangement of temporary protection measures that would be installed prior to the commencement of development.
- A methodology for any special construction that is required to ensure the success of proposed tree retention.
- A detail for any temporary construction measures, products or construction methods that are specified.
- Details of a proposed watching brief, monitoring or reporting.
- Significant landscaping provided within the core of the site and internal streets and roads are tree lined.

Reason: In order that the Reserved Matters Applications can be properly considered and assessed, in the interests of proper planning.

## **8. Landscaping**

All new planting, seeding or turfing comprised in the landscaping reserved matters shall be carried out in the first planting and seeding seasons following the completion of any particular phase. Any trees or plants, including retained trees and shrubs identified in the landscaping reserved matters, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

## **9. Secure by Design**

The details submitted pursuant to condition (1) (the reserved matters) shall include details demonstrating how the development meets the principles of 'secure by design'.

Reason: In the interests of crime prevention and safety

## **10. Limits**

The quantum of residential units to be constructed for the development hereby approved shall be limited to a maximum of 650 units.

Reason: To ensure that the development is carried out in accordance with the submitted with the application.

## **11. Detailed Masterplan, Design Code and Landscape Strategy**

The first application for Reserved Matters for the development hereby permitted shall be accompanied by a site wide detailed Masterplan with associated Design Code and a site-wide Landscape Strategy incorporating biodiversity enhancement measures and a Landscape Management Plan. The Masterplan and Design Code shall be informed by:

- The National Design Guide (Amended 2021 to align with National Model Design Code and Guidance Notes for Design Codes);
- The National Model Design Code (2021);
- Any other relevant Design Guide or Code that is adopted at the time; and
- A Design Review Outcome Report following a design review process involving the Local Planning Authority carried out by Design South-East or another appropriate design review panel that has been approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved Masterplan, Design Code and Landscape Strategy.

Reason: In order to ensure the development delivers a high-quality design, landscaping and place making.

## **12. Compliance Statement**

Any applications for Reserved Matters shall be accompanied by a Masterplan and Design Code Compliance Statement which demonstrates how that phase

of the development has been brought forward in accordance with the approved Masterplan and Design Code pursuant to Condition no. 11 (above) of this permission.

Reason: In order to ensure the development delivers a high-quality design and place making.

### **13. Details of Materials**

No development above construction of foundations, in a particular phase, shall commence until full details/samples of the materials to be used in the construction of the external surfaces of the buildings in that phase have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.

Reason: In order to further secure good design and a satisfactory appearance and so as not to delay construction the condition is triggered once development has reached slab level.

### **14. Archaeological Works**

To assess and mitigate the impacts of development on significant archaeological remains:

A. Prior to the commencement of development the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable 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 Local Plan policies 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.

### **15. Contaminated Land**

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

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

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

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

### **16. Construction Method Statement**

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

Reason: To protect the amenity of nearby occupiers and prevent pollution. 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.

### **17. 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.

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.

### **18. Hours of Construction Activity**

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

- Monday to Friday 0730 - 1800 hours, Saturdays 0800 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: To protect the amenity of nearby occupiers.

### **19. Impact Piling Hours of Activity**

No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times:-

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

Reason: To protect the amenity of nearby occupiers.

### **20. Ecological Mitigation and Management Plan**

Prior to the commencement of development (including site clearance) an Ecological Mitigation and Management Plan (EMMP) shall be submitted to and approved in writing by the Local Planning Authority. The EMMP shall be based on the recommendations in Section 5 of the Preliminary Ecological Appraisal by Adonis Ecology Ltd. Dated 20th April 2022. It shall provide detailed avoidance and mitigation measures to be carried out on site, together with a timetable for implementation. The development shall be carried out in accordance with the approved details. The EMMP shall include the following:

- a) Risk assessment of potentially damaging site clearance and construction activities;

- b) Further surveys required to inform the measures within the EMMP;
- c) Extent and location of proposed mitigation measures, shown on appropriate scale maps and plans;
- d) Identification of 'biodiversity protection zones';
- e) Practical measures (both physical measures and sensitive working practises) to avoid or reduce impacts during site clearance and construction (may be provided as a set of method statements);
- f) The location and timing of sensitive works to avoid harm to biodiversity features;
- g) The times during construction when specialist ecologists need to be present on site to oversee works;
- h) Responsible persons and lines of communication;
- i) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- j) Use of protective fences, exclusion barriers and warning signs.

The approved EMMP shall be adhered to and implemented throughout site clearance and the construction period in accordance with the approved details.

Reason: To ensure that any adverse ecological impacts of development activities are avoided or suitably mitigated. 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.

## **21. Biodiversity Enhancement Plan**

Prior to the commencement of development (including site clearance) a Biodiversity Enhancement Plan (BEP) addressing ecological mitigation and enhancement of the site has been submitted to and approved in writing by the local planning authority. The BEP shall be based on the outline proposals in Section 5.3 of the submitted Preliminary Ecological Appraisal by Adonis Ecology Ltd. Dated 20th April 2022 and include the following:

- a) Purpose and conservation objectives for the proposed works including creating suitable habitat for reptiles and amphibians and mammals and creating new hedgerows;
- b) Detailed design(s) and working method(s) to achieve stated conservation objectives;
- c) Extent and location/area of proposed works on appropriate scale maps and plans;
- d) Type and source of materials to be used where appropriate, e.g. native species of local provenance;
- e) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- f) Persons responsible for implementing the works.

The BEP shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To ensure that the losses of biodiversity can be compensated for and a net gain in biodiversity delivered in accordance with the requirements of the

NPPF (September 2023), and that the proposed design, specification and planting can demonstrate this. 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.

## **22. Landscape and Ecological Management Plan**

A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the completion of site access works of the development. The content of the LEMP shall include the following.

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions, together with a plan of management compartments;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Monitoring measures to demonstrate that the aims and objectives of management are being achieved including:
  - Identification of adequate baseline conditions prior to the start of development;
  - Methods for data gathering and analysis;
  - Location of monitoring and timing and frequency of monitoring;
  - Responsible persons and lines of communication.
- i) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: Biological communities are constantly changing and require positive management to maintain their conservation value. The implementation of a LEMP will ensure the long term management of habitats, species and other biodiversity features.

## **23. Highways Works**

No dwelling hereby approved shall be occupied until the off-site highway works to the A2500 Lower Road / Barton Hill Drive roundabout as indicated on drawing number SCP/220758/D03 have been constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

#### **24. Highways Works**

No more than 300 dwellings hereby approved shall be occupied until vehicle accesses onto Scocles Road and the A2500 Lower Road respectively as indicated on Create Consulting Engineers Ltd drawings both numbered 03/001 and 03/001, and a spine road connecting the two have been constructed and opened for use in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

#### **25. Provision of footway**

Prior to the occupation of any dwelling accessed from Scocles Road, a footway measuring at least 2m in width shall be constructed on the eastern side of Scocles Road between Thistle Hill Way and Elm Lane in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

#### **26. Provision of footway**

Prior to the occupation of any dwelling accessed from Lower Road, a 3m wide shared use footway/cycleway shall be constructed alongside Lower Road as shown indicatively on drawing BG/SRM/PCP/1 Revision C and extending to Scocles Road in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

#### **27. Provision of shared use footway/cycleway**

Prior to the occupation of any dwelling accessed from Lower Road, off-site works to construct a 3m wide shared use footway/cycleway between the existing provision at the junction of Lower Road and Thistle Hill Way to the junction of Lower Road and Scocles Road shall be carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

#### **28. Provision of footway connections**

Prior to the submission of the first reserved matters application, a phasing plan and details of footway connections linking pedestrian routes within the development to Queen Anne Close and the southern boundary of Scocles Court shall be submitted to and approved in writing by the Local Planning

Authority, and the footways shall thereafter be constructed in accordance with the approved specification and phasing plan.

Reason: In the interests of highway safety and convenience.

### **29. Construction Traffic Management Plan**

Prior to the commencement of development (including any works of site clearance or preparation) a Construction Traffic Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority (in consultation with the Highway Authority for the A249). The approved Plan shall be adhered to throughout the construction period. The Plan shall include as a minimum:

- a) Construction phasing
- b) The parking of vehicles of site operatives and visitors
- c) Loading and unloading of plant and materials
- d) Recording the condition of the immediate local highway prior to commencement, and measures to make good any damage attributed to construction traffic
- e) Routing and timing of construction traffic to / from site
- f) Wheel washing facilities
- g) Temporary traffic management / signage.

Reason: In the interests of the amenities of the area and highway safety and convenience and to mitigate any adverse impact from the development on the A249 in accordance with DfT Circular 01/2022 and section 10 of the Highways Act 1980. These details are required prior to commencement in order to ensure that satisfactory measures are in place prior to any construction activity.

### **30. Parking and turning space**

No dwelling shall be occupied until vehicle parking and turning space has been provided, surfaced and drained to the satisfaction of the Local Planning Authority in accordance with the adopted parking standards, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

### **31. Electrical vehicle charging**

No dwelling shall be occupied until full details of the electric vehicle charging have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall then be implemented for each house before the dwelling in question is first occupied. All Electric Vehicle chargers must be provided to Mode 3 standard (providing up to 7kw). Approved models are

shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:

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

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

### **32. Cycle storage**

No dwelling shall be occupied or the approved use commenced until space has been laid out for cycles to be securely sheltered and stored for that dwelling within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

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

### **33. Highways works**

The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner.

### **34. Highways works**

Prior to the first occupation of a dwelling / premises the following works between that dwelling / premises and the adopted highway shall be completed as follows:

- a) Footways and/or footpaths shall be completed, with the exception of the wearing course;
- b) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
  - 1) highway drainage, including off-site works,
  - 2) junction visibility splays,
  - 3) street lighting, street nameplates and highway structures if any..

Reason: In the interests of highway safety.

### **35. Travel Plan**

The development hereby permitted shall not be occupied unless and until a comprehensive Full Travel Plan has been submitted to and approved in writing

by the Local Planning Authority (in consultation with the Highway Authority for the A249). The Full Travel Plan shall be prepared in line with prevailing policy and best practice and shall include as a minimum:

- the identification of targets for trip reduction and modal shift;
- the measures to be implemented to meet these targets including an accessibility strategy to specifically address the needs of residents with limited mobility requirements;
- the timetable/ phasing of the implementation of the Travel Plan measures shall be alongside occupation of the development and its operation thereafter;
- the mechanisms for monitoring and review;
- the mechanisms for reporting;
- the remedial measures to be applied in the event that targets are not met;
- the mechanisms to secure variations to the Travel Plan following monitoring and reviews.

The development shall only be occupied in accordance with the approved Travel Plan which shall remain in perpetuity unless otherwise amended in accordance with a review to be agreed in writing by the Local Planning Authority in conjunction with the Highway Authority.

Reason: In order to minimise the use of the private car and promote the use of sustainable modes of transport in accordance with the National Planning Policy Framework and paragraph 40 DfT Circular 01/2022.

### **36. Highways Mitigation Strategy – Monitor and Manage**

The construction of the 250th dwelling (excluding enabling works, access routes, public realm, utilities and other associated infrastructure) shall not commence until full details of a 'Monitor and Manage Mitigation Strategy' has been submitted to, and approved in writing by, the Local Planning Authority, following consultation and agreement with National Highways as the highway National Highways Planning Response (NHPR 24-02) February 2024 authority for the Strategic Road Network (SRN). The Monitor and Manage Mitigation Strategy will set out a methodology to determine the actual traffic impacts of the completed dwellings in terms of traffic flow changes, changes to road safety risk, and changes in traffic conditions (queue lengths and delays) on the SRN upon the occupation of the 250th dwelling. This information is to be set out in a report, and be used to confirm that:

- a) the agreed mitigation for the A249/A2500 Roundabout (as shown in SCP drawings refs: SCP/220758/D08 Rev F and SCP/220758/D09 Rev E in the Transport Assessment Addendum dated April 2024 (Ref. SCP/220758/TAA/03)), remains necessary, or
- b) an alternative scheme of mitigation for the A249/A2500 Roundabout, detailed to preliminary design standard including but not limited to a Stage 1 Road Safety Audit, is necessary and appropriate to safely accommodate the traffic generation of the remainder of the development beyond the 325th dwelling, or



- c) the traffic generation of more than 325 dwellings can be safely accommodated by the existing A249/A2500 Roundabout layout and if so, the number of occupations that, on the basis of the monitoring data and up-to-date transport evidence, renders the agreed mitigation necessary. In this case, the monitoring process shall be repeated on the occupation of the Xth dwelling, X being the revised number of permitted occupations prior to mitigation becoming necessary minus 75, or
- d) the traffic generation of the full development can be safely accommodated by the existing A249/A2500 Roundabout layout and therefore the agreed mitigation is no longer needed.

The methodology shall set out how any review of traffic impacts will be informed by up-to-date transport evidence including appropriate traffic modelling capable of satisfactorily replicating the operation of the SRN including junction interactions and network constraints, with reported results.

Reason: To ensure the agreed mitigation for the A249/A2500 Roundabout remains effective and appropriate.

### **37. Highways Mitigation**

The construction of the 326th dwelling shall not commence until the improvement schemes identified for the A249/A2500 Roundabout, as shown in National Highways Planning Response (NHPR 24-02) February 2024 SCP drawings refs: SCP/220758/D08 Rev F and SCP/220758/D09 Rev E in the Transport Assessment Addendum dated April 2024 (Doc Ref: SCP/220758/TAA/03) are completed and open to traffic.

Reason: To mitigate the impact of the development on the A249, in accordance with paragraph 115 of the NPPF (December 2023) and paragraph 40 of the DfT Circular 01/2022.

### **38. Lighting Design**

Prior to the commencement of development a “lighting design strategy for biodiversity” for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting strategy shall:

- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important foraging and commuting routes;
- b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.

Reason: In order to protect and enhance biodiversity on the site in accordance with the aim of local planning policy. In line with the National Planning Policy (2012) paragraph 125. The following species have been found on this site [bats,

badgers and otters] and are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and/or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation. 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 light sensitive species present on the site.

### **39. External Lighting Strategy**

Prior to the installation of any external lighting, in a particular phase, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority.

Reason: External lighting details are necessary in the interests of the character and appearance of the area, biodiversity and to protect residential amenities

### **40. Surface Water Drainage**

Prior to the commencement of development details of surface water drainage have been submitted and approved in writing by the Local Planning Authority to demonstrate that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout.

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

### **41. SUDS Scheme**

Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment and Outline Drainage Strategy prepared by Paul Graveney Consulting Ltd (Issue 2 dated 22nd April 2022) 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 include details of measures to mitigate the risk of flooding along watercourse corridors and land low spots. The details shall include consideration of flood resilience measures, exceedance routes away from buildings and finished floor level for any dwellings close to these locations.

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 be implemented in accordance with the approved details.

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

#### **42. SUDS Maintenance**

Prior to the commencement of 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 SuDS should be located in accessible areas, and the plan should include addressing the frequency of maintenance for each SuDS feature 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.

#### **43. Surface Water Drainage Verification Report**

No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the

development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 169 of the National Planning Policy Framework.

#### **44. Diversion of Sewers/Water Mains**

The developer must advise the local authority (in consultation with Southern Water) of the measures which will be undertaken to divert the public sewers/water mains, prior to the commencement of the development.

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

Reason: In the interests of safeguarding Southern Water infrastructure on the site.

#### **45. Energy**

For each relevant phase, the details submitted pursuant to condition (1) (the reserved matters) shall include details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the Local Planning Authority.

The details shall demonstrate that at least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended) will be achieved.

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

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

#### **46. BREEAM**

All non-residential buildings hereby approved shall be constructed to BREEAM 'Very Good' Standard or an equivalent standard and prior to the use of the buildings the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

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

#### **47. Water Consumption**

The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day.

Reason: In the interests of water conservation and sustainability.

#### **48. Accessible and Adaptable Dwellings**

At least 10% of the affordable units hereby permitted shall be built to M4(3) of building regulations standards and all of the remaining units will be built to M4(2)

of building regulations standards unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to secure accessible and adaptable dwellings.

#### **49.Noise**

Prior to the commencement of development the final layout locations of properties on the site and their associated amenity areas shall be submitted to the Local Planning Authority together with a further noise assessment identifying properties that require noise mitigation measures and full details of any proposed measures. Upon approval by the Local Planning Authority the noise mitigation measures shall be implemented in full prior to occupation of the premises and retained thereafter.

Reason: To protect the amenities of any future residents and to ensure acceptable external and internal noise levels are specified and achieved. These details are required prior to the commencement of development in order to ensure that the development as built will provide satisfactory living conditions for future occupants.

#### **50.Sports Facilities**

The reserved matters shall include formal sports facilities to meet the needs of the development which shall be delivered in accordance with Sport England and relevant governing body standards.

Reason: In the interests of securing adequate sports facilities to meet the needs of the development which will be delivered to an appropriate specification.

#### **51.Heritage Interpretation Board**

Prior to the first occupation of the development hereby permitted the applicant shall install a heritage interpretation board within the site in the vicinity of Scocles Court in accordance with details which shall have been approved in writing by the Local Planning Authority. The heritage interpretation board shall provide information about Scocles Court including its historic function as a farmhouse.

Reason: In order to mitigate the impact of the development on Scocles Court arising from the loss of its rural setting.

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<b>2.4 - REFERENCE NO. 22/505076/OUT</b>		
<b>PROPOSAL</b> Outline application for the erection of up to 42no. residential dwellings, including open space, drainage, infrastructure and other associated works (Access being sought).		
<b>SITE LOCATION</b> Land at Pheasant Farm, Bramblefield Lane, West of Iwade Bypass, Sittingbourne Kent ME9 8QX		
<b>RECOMMENDATION</b> Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement as set out in the report, with further delegation to the Head of Planning / 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.		
<b>APPLICATION TYPE</b> Major (Outline)		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Recommendation of Head of Planning conflicts with written representation received from Parish Council		
<b>Case Officer</b> Simon Greenwood		
<b>WARD</b> Bobbing, Iwade and Lower Halstow	<b>PARISH/TOWN COUNCIL</b> Bobbing	<b>APPLICANT</b> E. H. Nicholls Holdings Ltd  <b>AGENT</b> DHA Planning
<b>DATE REGISTERED</b> 21 November 2022		<b>TARGET DATE</b> 21 October 2024
<p><b>BACKGROUND PAPERS AND INFORMATION:</b> Documents referenced in report are as follows: -</p> <p>60624620-04001 Rev. C Parameter Plan Land Use 60624620-04003 Rev. D Indicative Layout Design Principles 17161-DP01</p> <p>All drawings submitted All representations received</p> <p>The full suite of documents submitted pursuant to the above application are available via the link below: -</p> <p><a href="https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=RK3ZBOTYFGU00">https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=RK3ZBOTYFGU00</a></p>		

1. SITE LOCATION AND DECRIPTION

- 1.1. The approx. 1.8ha irregular (but roughly rectangular) shaped application site is located on Sheppey Way within Howt Green.

- 1.2. The site is relatively flat and comprises a combination of hard surfacing, grass and scrub. There is fencing to the western and southern boundaries and mature trees along the eastern boundary which separate the site from the A249. There is hedging along the northern boundary which separates the site from an agricultural field which is also within the applicant's ownership.
- 1.3. The site has accommodated various temporary uses over the last 25 years or so and has not been in agricultural use during this time. It has been used as a contractor's compound in relation to the construction of A249 and more recently used in relation to overhead power line works. The application also indicates that the site has been in use as a depot and for open storage. The site is currently predominantly disused; however, there is a portacabin, water tank, vehicle parking and some open air storage within the southern part of the site adjacent to the access. However, the lawful use of the site is agriculture.
- 1.4. The surrounding area is characterised by sporadic residential, agricultural, commercial and community uses and buildings of varying forms.
- 1.5. Immediately to the south of the site, running past the site's entrance, is Bramblefield Lane, a designated cycle/footpath which leads to a footbridge over the A249 and connects with the B2005, and which forms part of National Cycle Route Network Route 1.
- 1.6. Kemsley train station is located 800m away (to the south-east), over the A249 footbridge.
- 1.7. The site falls entirely within Flood Zone 1 where a low probability of flooding from rivers and the sea is anticipated.
- 1.8. There is a Grade II listed building (Pheasants Farmhouse) which fronts Sheppey Way directly opposite the site.
- 1.9. The site is located outside any defined settlement boundary. The site is not subject to any landscape designation; however, it is designated within the Local Plan as part of the Important Local Countryside Gap (ILCG).

## 2. PLANNING HISTORY

- 2.1. Outline planning permission was refused in February 2021, a time when the Council was able to demonstrate a 5 year housing land supply, for the erection of up to 51 residential dwellings including a minimum 40% affordable housing, open space, drainage infrastructure and other associated works on grounds (ref. 20/504794/OUT). The first 3 grounds of refusal, which are repeated in full as this decision is an important consideration in assessing the current application, were as follows:
  1. The proposed development would fail to protect the intrinsic value, tranquillity and beauty of the countryside and rural context - together with harm to the open character of the Important Local Countryside Gap - by virtue of its location outside any well-defined urban boundary and within the defined Important Local Countryside Gap. The proposal would also result in the creeping coalescence of adjoining settlements and the permanent loss of



open countryside. This harm both significantly and demonstrably outweighs any benefits from the proposal (including its contribution to the overall supply of housing in the Borough and to the provision of affordable dwellings). The development is therefore contrary to policies ST1, ST3, CP3, CP4, DM9, DM14, DM24 and DM25 of the "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and would be contrary to paragraphs 8, 11, 79, 127, 130 and 170 of the National Planning Policy Framework.

2. The lack of the prospect of residents being able to integrate with the existing communities and the limited public transport to service the site, which will result in a car dependent population, means that the proposed development represents unsustainable development and, therefore, fails to comply with the requirements of paragraph 8 and 79 of the National Planning Policy Framework 2019. This harm both significantly and demonstrably outweighs any benefits from the proposal (including its contribution to the overall supply of housing in the Borough and to the provision of affordable dwellings). The development is therefore contrary to policies ST1, ST3, CP3, CP4, DM9, DM14, DM24 and DM25 of the "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and would be contrary to paragraphs 8, 11, 79, 127, 130 and 170 of the National Planning Policy Framework.
3. It has not been demonstrated that the proposal would not result in harm to the setting or significance of Grade II listed Pheasants Farmhouse. The proposal would not comply with paragraphs 193 and 194 of the National Planning Policy Framework which states that 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification'. As such the proposal would be contrary to policy DM32 of "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and paragraph 193-194 of the National Planning Policy Framework (2019).

- 2.2. The application was also refused on grounds relating to insufficient information to ensure that visibility splays always remain clear and the lack of a legal agreement to secure relevant planning obligations.
- 2.3. At the time of writing an application was pending consideration for the change of use of immediately adjacent land to the north-east to equestrian use for a commercial livery yard, comprising the erection of a stable and therapy barn, a storage barn, and the creation of an all-weather riding arena, with associated access, landscaping and other works (ref. 23/502305/FULL).
- 2.4. An application for a lawful development certificate for an existing use for the stationing of portable office buildings was refused in October 2009 (ref. SW/09/0759). It was considered that the applicant had failed to demonstrate, on the balance of probabilities, that the use of the site had taken place for a continuous period of 10 years prior to the application.
- 2.5. An application for a lawful development certificate for a road contractors depot and storage was refused in March 2008 (ref. SW/08/0090). It was considered that the

applicant had failed to demonstrate, on the balance of probabilities, that the use of the site had taken place for a continuous period of 10 years prior to the application. A similar application for the same use had been previously refused on the same grounds in December 2007 (ref. SW/07/1179). The decisions noted that the use had benefitted from deemed planning permission for the period 2003-2007 and the use of the site for this time did not contribute to the period after which such an unauthorised use would become lawful.

- 2.6. Outline planning permission was refused in November 1997 for a distribution and transport facility with associated offices (ref. SW/97/0621). The reason for refusal is not known as the decision notice is not available.

### **Appeal History**

- 2.7. A joint appeal relating to applications refs. SW/08/0090 and SW/07/1179 which sought a lawful development certificate for a road contractors depot and storage was dismissed in April 2009 (refs. APP/V2255/X/08/2077462 and APP/V2255/X/08/2076431). The inspector agreed with the Council that the appellant had not demonstrated that, on the balance of probabilities, the use had taken place for a continuous period of 10 years prior to the applications.

### **Nearby Sites**

- 2.8. Planning permission was granted in December 2020 for 155 dwellings with associated development at land adjacent to Quinton Farm House, Quinton Road, Sittingbourne (ref. 18/500257/EIFUL). The consent relates to part of the site allocated under Local Plan MU1.
- 2.9. The Council resolved to grant hybrid planning permission in March 2021 for the erection of 1,190 dwellings (348 in detail), secondary school, primary school, mixed use centre, open space and other associated works at land north of Quinton Road, Sittingbourne (ref. 18/502190/EIHYB). A decision notice has not yet been issued as negotiations relating to the Section 106 legal agreement remain ongoing; however, it is understood that the agreement is nearing completion. The application relates to part of the site allocated under Local Plan policy MU1.
- 2.10. Outline planning permission was granted in July 2021 for up to 115 dwellings and supporting infrastructure at land at Great Grovehurst Farm, Grovehurst Road, Sittingbourne (ref. 18/502372/EIOUT). The consent relates to part of the site allocated under Local Plan policy MU1.
- 2.11. A hybrid planning application was approved in September 2021 which included outline planning permission for 19 residential dwellings at Halfway Egg Farm, Featherbed Lane, Sittingbourne (ref. 18/506677/HYBRID). It is noted that the site was located in open countryside and within the Important Local Countryside Gap.
- 2.12. Planning permission was granted in July 2022 for the erection of 69 dwellings with associated works at land at Pond Farm, Grovehurst Road, Iwade (19/501332/FULL).

- 2.13. A hybrid planning application was approved in July 2022 which included outline planning permission for up to 466 dwellings and a community hall at land east of Iwade, Iwade, Kent (ref. 19/503974/HYBRID).
- 2.14. An outline planning application was received November 2022 for a mixed use development comprising up to 2,500 dwellings, a 4.99ha commercial employment zone including doctors surgery, a 4.2ha sports hub, primary school, community facilities, local retail provision, public open space, children's play areas and associated development at land west of Bobbing, Sittingbourne (ref. 22/503654/EIOUT). The application has not yet been determined and would involve development in open countryside contrary to the development plan. The indicative Masterplan proposes development close to the site on the opposite side of Sheppey Way.
- 2.15. Outline planning permission was granted in November 2023 for up to 16 residential units at Bobbing Car Breakers, Sheppey Way, Bobbing (ref. 20/502715/OUT).

### **Other relevant cases**

- 2.16. Outline planning permission was granted at appeal for up to 135 dwellings at Land off Swanstree Avenue in May 2023 (LPA ref. 21/505498/OUT; PINS ref. APP/V2255/W/22/3311224). The site was located within the ILCG and the Inspector noted that the development would undermine two purposes of the ILCG in that it would neither safeguard the open and undeveloped character of the area, nor would it prevent encroachment or piecemeal erosion or changes to the rural open character. In assessing the planning balance the Inspector attached moderate weight to the conflict with the ILCG designation and moderate weight to the conflict with the Swale Settlement Strategy.
- 2.17. Outline planning permission was granted at appeal for up to 290 dwellings at Land at Ufton Court Farm in July 2024 (LPA ref. 22/505646/OUT; PINS ref. APP/V2255/W/23/3333811). The site was located within the ILCG and the Inspector identified that the development would result in modest harm in terms of the ILCG purposes to safeguard the open and undeveloped character of the area and to prevent encroachment or piecemeal erosion or changes to the rural open character. In assessing the planning balance the Inspector attached limited weight to the conflict with the ILCG designation and limited weight to the conflict with the Swale Settlement Strategy.

### **3. SHLAA**

- 3.1. The site was considered under the Council's Strategic Housing Land Availability Assessment (SHLAA) (April 2020) as follows:

*The site is not subject to any high level constraints but is separated from any existing built-up area boundary or settlement. It falls within a minerals safeguarding area and there is a listed building opposite. The site is previously developed land but is now vacant, containing the remnants of fire damaged buildings and hardstanding. There is a public house close to the site but no convenience shops, schools or doctor's surgeries within a reasonable walking distance. Similarly, given the sporadic nature of development here, there are also extremely limited employment opportunities within a*

*reasonable walking distance of the site. As such, travel would be required into Iwade, Sittingbourne and onwards for almost all everyday services and facilities. Cycling is unlikely to be used as a significant means of transport due to the fast moving Sheppey Way which does not have dedicated cycling lanes at this location. There are bus stops on either side of the road here, but this alone does not make a location sustainable. The site is considered unsuitable.*

*The landowner has promoted the site through the ‘call for sites’ exercise and there is no record of any unimplemented permissions. The site is considered to be available.*

*Subject to further consideration of any utility/infrastructure requirements, there is a reasonable prospect that the site could be developed over a certain period of time. The site is considered to be achievable.*

- 3.2. The site is being considered under the call for sites as part of the emerging Local Plan process and is also being assessed under the next iteration of the SHLAA.

#### 4. PROPOSED DEVELOPMENT

- 4.1. Outline planning permission is sought for the for the erection of up to 42 residential dwellings, including open space, drainage, infrastructure and other associated works. Approval of access to the site is sought with all other matters reserved.

- 4.2. The application is accompanied by an indicative layout plan which shows 42 houses sited within and around a roughly rectangular shaped road. The layout shows a mixture of detached, semi-detached and terraced properties with open space to the eastern part of the site. Access to the site would be via Bramblefield Lane. Approval of layout is not being sought at this stage and the applicant has submitted a Design Principles document which is intended to inform a revised layout of development at Reserved Matters stage. However, the indicative layout is considered to satisfactorily demonstrate that the site can accommodate 42 residential units.

#### 5. CONSULTATION

- 5.1. One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper in accordance with statutory requirements.

- 5.2. One letter of representation was received in relation to the consultation. Concerns/ comments were raised in relation to the following matters: -

Comment	Report reference
Increased traffic on Sheppey Way	Paras. 8.97-8.101
Increased pressure on local infrastructure and services including schools and doctors.	Paras. 8.120-8.122
Increased noise and pollution; Noise and pollution mitigation should be provided.	Para. 8.136

Roads are in a poor state and increased traffic will worsen the situation.	Paras. 8.97-8.101
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5.3. Iwade Parish Council objected to the application on the following grounds: -

Comment	Report reference/ clarification
Increased pressure on inadequate local infrastructure and services including healthcare and water.	Paras. 8.120-8.122
Loss of agricultural land.	Paras. 8.31-8.35
Land currently drains onto A249 and Highways England may have concerns.	Para. 8.99 and condition 32
Application indicates that a larger adjacent area is under their control and applicant may intend to submit a further application on this land, further eroding the countryside gap.	Para. 8.151
Appeal decision relating to land at Church Farm, Sheppey Way (ref. APP/V2255/W/16/3153537) identified importance of maintaining a local countryside gap in this area.	Paras. 8.20-8.21

5.4. Bobbing Parish Council raised concerns in relation to the application which are summarised as follows: -

Comment	Report reference
Site is within the Local Countryside Gap	Paras. 8.20-8.21
Concern regarding comments made by statutory bodies.	Paras. 6.3-6.19

## 6. REPRESENTATIONS

6.1. **Climate Change Officer**:- No objections raised subject to conditions.

6.2. **Kent Police**: - No objections raised subject to informatives.

6.3. **KCC Ecology**: - Sufficient information has been provided and no objections are raised. Ecological mitigation and enhancements should be secured by condition. Developer Contributions should be secured due to the increase in dwellings within the zone of influence of a Special Protection Area.

- 6.4. **KCC Minerals:-** The probability of any useable mineral deposits being present on the site are limited, though it is not proven that there are no useable safeguarded minerals. However, it is likely that the past development of the land has compromised any viable brickearth extraction. On that basis, KCC raise no objections on land won mineral safeguarding grounds.
- 6.5. **KCC Drainage:-** No objections raised subject to conditions.
- 6.6. **National Highways:-** The proposal would be acceptable in terms of the safety, reliability and operational efficiency of the SRN in the vicinity of the site (A249), subject to conditions. Accordingly, no objections are raised.
- 6.7. **KCC Highways:-** No objections raised subject to conditions and informatives.
- 6.8. **Natural England:-** No objections raised subject to securing appropriate mitigation for recreational pressure impacts on European designated habitat sites.
- 6.9. **Trees Officer:-** No objections raised subject to conditions.
- 6.10. **SBC Conservation:** - The proposal is considered to result in a medium level of less than substantial harm to the agricultural setting of the Grade II listed Pheasant Farmhouse which is located on the opposite side of Sheppey Way.
- 6.11. **SBC Urban Design:** - Concerns were initially raised in relation to the design and layout of the scheme. The applicant submitted details of design principles in response which, noting that approval of layout is not being sought at this time, provides sufficient comfort that a well designed scheme could be secured at reserved matters stage.
- 6.12. **KCC Archaeology:** - The main archaeological potential of the site arises from its location alongside the key route through to the Sheppey crossing and the extensive prehistoric landscapes that are being discovered around Iwade, Bobbing and Kemsley on development sites in recent years. There is potential for archaeological remains from the prehistoric to medieval periods. A programme of archaeological works should be secured by condition.
- 6.13. **Mid Kent Environmental Health:** - No objections raised subject to conditions securing details of noise mitigation measures, a Phase 2 intrusive land contamination investigation and a Code of Construction Practice.
- 6.14. **SBC Housing:** - The 40% (17 units) affordable housing should comprise 90% affordable/social rented tenure housing and 10% shared ownership tenure housing. Swale's Housing Register demonstrates a need for all types and sizes of accommodation for those in housing need in the Sittingbourne area. The number of applications to the Housing Register has significantly increased in the last year and there are now more than 1,800 households in need of affordable rented homes in Swale, with more than 300 households living in temporary accommodation for significant periods of time. Accordingly, the proposed affordable housing would be welcomed.
- 6.15. **Southern Water:** - No objections raised subject to informatives.

- 6.16. **Lower Medway Internal Drainage Board:-** The site is located outside the Board's District; however, it is within catchments which ultimately drain into the Board's district. Discharge of surface water from the site into a watercourse will be subject to a land drainage consent for which a Surface Water Development Contribution fee will be payable. Consent will be subject to the suitability of the receiving drainage network in terms of continuity, capacity and condition.
- 6.17. The Board welcomes the proposals for utilising infiltration techniques and SUDS features for surface water storage such as swales and porous paving
- 6.18. Conditions are requested to secure the following:
- Full scheme for surface water disposal based on SUDS principles and including climate change;
  - Verification of surface water drainage scheme once constructed;
  - A maintenance schedule for the surface water scheme;
  - Management of surface water during the construction phase.
- 6.19. **Integrated Care Board:-** Financial contribution of £36,228 requested towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.

## 7. DEVELOPMENT PLAN POLICIES

### 7.1. **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017**

- ST 1 Delivering sustainable development.
- ST 2 Development targets for jobs and homes 2014- 2031
- ST 3 The Swale settlement strategy
- ST 4 Meeting the Local Plan development targets
- ST 5 The Sittingbourne area strategy
- CP 2 Promoting sustainable transport
- CP 3 Delivering a wide choice of high-quality homes
- CP 4 Requiring good design
- CP 5 Health and wellbeing
- CP 6 Community facilities and services to meet local needs
- CP 7 Conserving and enhancing the natural environment
- CP 8 Conserving and enhancing the historic environment
- DM 6 Managing transport demand and impact
- DM 7 Vehicle parking
- DM 8 Affordable Housing
- DM 14 General development criteria
- DM 17 Open space, sport and recreation provision
- DM 19 Sustainable design and construction
- DM 21 Water, flooding and drainage
- DM 24 Conserving and enhancing valued landscapes
- DM 25 Local Countryside Gap
- DM 28 Biodiversity and geological conservation

- DM 29 Woodland, trees and hedges
- DM 31 Agricultural land
- DM 31 Development involving listed buildings.

## 7.2. **Supplementary Planning Guidance/Documents –**

- Landscape Character and Biodiversity Appraisal (2011);
- Swale Borough Council's Noise and Vibration Planning Technical Guidance (2020);
- KCC Developer Contributions Guide;
- Developer contributions SPD (2009);
- Swale Landscape Character and Biodiversity Appraisal SPD (2011);
- Parking Standards SPD (2020);
- Planting on New Developments: A Guide for Developers;
- Air Quality Technical Guidance (2021);
- A Heritage Strategy for Swale;
- Guidance for complying with the climate change planning condition to reduce operational carbon of new dwellings in Swale by 50% (2020);
- Kent Design – A Guide to Sustainable Development (2000);
- National Design Guide: Planning practice guidance for beautiful, enduring and successful places (2021);
- Renewable Energy Guide (2014);
- Housing Supply Statement (2022 -2023);
- Open Spaces and Play Area Strategy (2018-2022);
- A Heritage Strategy for Swale (2020).

## 8. ASSESSMENT

8.1. This application is reported to the Committee because a Parish Council has objected to the proposal.

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

- The Principle of Development
- Size and Type of Housing
- Affordable Housing
- Landscape and Visual
- Heritage
- Archaeology
- Design of the proposed development
- Ecology
- Transport and Highways
- Air Quality
- Community Infrastructure
- Open Space
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions
- Sustainability / Energy
- Noise.



## Principle

- 8.3. 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.
- 8.4. 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.

## Local Plan Policy

- 8.5. Local Plan Policy ST1 (4) states that to deliver sustainable development in Swale, all development proposals will, as appropriate, accord with the Local Plan settlement strategy. Local Plan Policy ST3 (5) relates to the settlement strategy and states that at locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 8.6. The supporting text to Policy ST3 states in part that the primary objective of the strategy outside the built-up boundaries will be to protect it from isolated and/or large scales of development. The site lies outside of the built-up area boundaries identified on the Proposals Map and accordingly the proposed development is in conflict with Policies ST 1 and ST 3.
- 8.7. Local Plan Policy ST 5 sets out the Sittingbourne area strategy and states at Part 6 that development proposals will, as appropriate, maintain the individual character and separation of ILCGs around Sittingbourne in accordance with Policy DM 25.
- 8.8. Local Plan Policy CP 2 is concerned with promoting sustainable transport and states, inter alia, that new development will be located in accordance with Policies ST 1 to ST 7 to minimise the need to travel for employment and services and facilitate sustainable transport. It should be noted that the policy is principally concerned with the delivery, improvement and safety of transport infrastructure.
- 8.9. Local Plan Policy CP 3 is concerned with delivering a wide choice of high quality homes and states that development proposals will, as appropriate, be steered to locations in accordance with Policy ST 3. ns which accord with policy ST 3; however, these policies have a wider scope. It should be noted that the policy has a wider scope and is principally concerned with the quality and choice of new housing.
- 8.10. Local Plan policy DM25 is concerned with ILCGs which are identified within the Local Plan and are intended to retain the individual character and setting of settlements. The ICLG is defined, inter alia, as a gap between Sittingbourne and the satellite villages of Bobbing and Iwade. The policy states that within these gaps, unless allocated for

development by the Local Plan, planning permission will not be granted for development that would undermine one or more of their purposes. It is noted that Howt Green is not specifically identified as a settlement for which the policy seeks to retain an individual character and setting.

8.11. The supporting text to the policy states, inter alia, that:

*With the settlement strategy of the Local Plan focusing development pressures at the major settlements in the Borough, there is a need to prevent the coalescence and the erosion of the intrinsic character of settlements close by.*

*The identity, character, and setting of settlements are formed, in part, by their physical separation from one another. Whilst the use of Landscape Character Assessments assist in safeguarding the intrinsic character and beauty of the countryside, in areas where development pressures could lead to coalescence or erosion of settlement separation, the definition of those gaps provides additional emphasis when considering allocations and development management issues...*

*The purposes of ILCGs (and Policy DM 25) are to:*

- *maintain the separate identities and character of settlements by preventing their merging;*
- *safeguard the open and undeveloped character of the areas;*
- *prevent encroachment and piecemeal erosion by built development or changes to the rural open character; and*
- *influence decisions on the longer-term development of settlements through the preparation and review of Local Plans...*

Background – Policy MU1 (Land at North West Sittingbourne) and Swale Urban Extensions Landscape Capacity Study

8.12. Local Plan Policy MU1 allocates Land at North-west Sittingbourne for development comprising a minimum of 1,500 dwellings, community facilities, structural landscaping and open space. The allocation site lies on the opposite side of the A249 from the application site and is identified in the supporting text as part of an ILCG between Sittingbourne and the villages of Iwade and Bobbing, which indicates that this part of the ILCG previously comprised a much wider gap. The supporting text to Policy MU1 at paragraph 6.6.23 references a need to maintain separation between settlements and cites the Swale Urban Extensions Landscape Capacity Study (2010) (SUELC) which formed part of the evidence base for the Local Plan. The Study advises that north of the footbridge crossing the A249 it would be appropriate to conserve the open character of the landscape between settlements. Relevant excerpts are provided for context, transparency and completeness to inform an assessment of the principle of development within this part of the ILCG.

8.13. The MU1 site allocation includes a substantial linear park between the new housing and schools and the A249 and paragraph 6.6.5 of the Local Plan notes, inter alia, that:

*Whilst it is a sustainable choice for an extension to the Sittingbourne area, the landscape setting and separate identity of the settlements remains an important consideration for this development. The substantial area of natural and semi natural*

*green space proposed for the western boundary of the site is therefore intended to enable the long term functioning of this land to continue to act as part of the countryside gap.*

- 8.14. The site allocation includes Land at Pheasant Farm, Grovehurst Road/Bramblefield Land which was the subject of planning application ref. 18/502190/EIHYB and which is addressed in the supporting text to Policy MU1. The commentary notes that the western part of the site is not suitable for development due to the significant adverse landscape impacts that would accompany the erosion of settlement separation between Sittingbourne and Iwade and the small settlements located along the old Sheppey Way. It further notes that this view is endorsed in the Urban Extensions study, which advises that north of the footbridge crossing the A249 it would be appropriate to conserve the open character of the landscape between settlements.
- 8.15. It is therefore noted that a substantial landscape buffer will be provided along the eastern side of the A249 which is intended to reinforce the countryside gap, whilst the application site is located immediately to the north of the footbridge crossing the A249 where the Local Plan identifies that openness should be maintained.
- 8.16. The SUELC identified the site within Study Area 17 which is assessed as having a moderate local landscape sensitivity, a low landscape value and a high capacity to accommodate change. The Study notes that:
- ...north of the footbridge which crosses the A249, the landscape forms part of the open space between the separate settlements of Iwade and Sittingbourne. Therefore whilst this landscape relates well to existing development within Sittingbourne and large scale industrial buildings at Kemsley it would perhaps be appropriate to conserve the open character of the landscape between settlements. Retaining this area as open landscape would be particularly important if the boundary of Iwade is extended closer towards the A249...Development would be particularly undesirable west of the A249, in order to retain the rural character, and prevent continuous ribbon development, along the road which passes through Bobbing and Howt Green.*
- 8.17. The SUELC underpins the intent of the Local Plan that the site forms part of a landscape where it may be appropriate to maintain openness. However, it should also be noted that the site and adjoining open land to the north was identified within in Study Area 17 as a potential employment site within the Employment Land Review. The Review dismissed the site for employment use primarily on grounds that it occupied a remote location with no services in the immediate vicinity, rather than impacts on open, rural character.

#### Reappraisal of previous refusal

- 8.18. As noted above, planning permission was previously refused for a larger scheme comprising 51 dwellings on grounds including the loss of Important Local Countryside Gap, conflict with the Swale Settlement Strategy, the unsustainable location of the site, and a lack of information relating to heritage impacts. The planning history relating to a site is a relevant material consideration in the assessment of any planning application therefore due regard should be had to this previous decision in assessing the current application. The current proposal involves a 9 unit reduction in the quantum

of development and increased landscape buffers to the western and northern boundaries of the site which are intended to better integrate the scheme into the rural context and represent a partial response to the previous grounds of refusal. The application is also accompanied by a Heritage Assessment which seeks to address the heritage ground of refusal, and this is considered in the Heritage section of this report.

- 8.19. The Council's present lack of a 5 Year Housing Land Supply (5YHLS) alters the assessment of the current proposal, as covered later in this section. Furthermore, the applicant challenges the Council's assessment of the previous application and makes some pertinent observations. Accordingly, there is merit in re-appraisal of the key issues.

#### Important Local Countryside Gap

- 8.20. The applicant notes that the site has not been in agricultural use for over 25 years and recent historic uses of the site have undermined the open character of the site and its role supporting the purpose of the ILCG. It is noted that these uses were temporary and included storage uses, depots and compounds to support infrastructure projects in the locality. These uses have involved around two thirds of the site being covered by concrete and hardstanding which is likely to have compromised the soil structure and resulted in potential contamination. Whilst the lawful use of the site is agriculture, the site bears many characteristics of previously developed land. There is some doubt that the site would be returned to agricultural use and there is a likelihood that the site could continue to accommodate temporary uses which would impact upon the open character of the site and undermine the purpose of the ILCG.
- 8.21. The officer's report for the previous scheme identified that the proposal would undermine the principles of the ILCG where residential development would be keenly felt due to the narrowness of the ILCG at this point. The ILCG appears to have previously included the land to the east of the A249 and, prior to the removal of this land from ILCG, would have provided a more substantial rural separation between the built-up areas of Sittingbourne and Iwade and Bobbing. A key consideration is whether the narrowness of the gap and the limited degree of separation it provides between settlements makes it critical that the remaining gap is retained, or whether the function of this part of the gap is already compromised, and the harm arising from the proposed development would be limited. The former view was reached in determining the previous application (ref. 20/504794/OUT), whilst the SUELC and the Local Plan identified merit in maintaining the open character of the land to the west of the A249 and to the north of the Bramblefield Lane footbridge. However, this part of the ILCG lies between two busy roads (the A249 and Sheppey Way) and is characterised by a mixture of residential, commercial and industrial development, particularly to the south of the site, which do not contribute towards the purposes of the gap. The site itself is or potentially will be surrounded by development, including through the development anticipated to come forward under application ref. 18/502190/EIHYB and the livery scheme currently pending consideration under application ref. 23/502305/FULL. The site will therefore perform a limited function in terms of the ILCG purpose of safeguarding the open and undeveloped character of the area. The application is

accompanied by a Landscape and Visual Impact Assessment (considered later in this report) which identifies that the development would result in a beneficial landscape impact in the longer term. In view of the location of the site in relation to Iwade and Bobbing the proposal would not contribute to the coalescence of these villages with Sittingbourne and would not undermine the purposes of the gap in this regard. It is also noted that the A249 and the cutting it sits within creates a clear separation between the built-up area of Sittingbourne and the villages and smaller settlements to the west such that they would never be viewed as part of Sittingbourne. This sense of physical separation will be enhanced through the development anticipated under application ref. 18/502190/EIHYB which will include a substantial landscape buffer along the A249. Having regard to these considerations, it is considered that there will be a moderate degree of harm arising from development within this part of the ILCG contrary to Local Plan Policies DM 25 and ST 5.

#### Sustainability of site location

- 8.22. The previous application was also refused on grounds that the site occupied an unsustainable location in view of distances to local settlements and amenities, limited public transport options and impractical walking conditions. Accordingly, it was considered that the proposed development was likely to give rise to a car dependent population.
- 8.23. The accessibility of the site to nearby settlements and amenities on foot or by bicycle is summarised as follows:
- Approx 1.8km (1.1 miles) to the primary school and local centre at Iwade with no footway along part of route (albeit a new footway for this part of the route has been secured under planning permission ref. 19/503974/HYBRID and partly duplicated under planning permission ref. 20/502715/OUT). The local centre provides a GP's surgery, pharmacy, village hall, pub, primary school, convenience store and nursery;
  - Approx. 1.3km (0.8miles) to Bobbing via Sheppey Way with no footway along part of the route;
  - Approx. 0.5km (0.3miles) to the edge of north-west Sittingbourne via the footbridge over the A249;
  - Approx 1km (0.6 miles) to Kemsley Station, pharmacy, GP's surgery and convenience store via the footbridge over the A249. There is also a primary school, community centre and industrial area providing employment within approx. 2.1km (1.3 miles);
  - Approx 0.8km (0.5 miles) to the bus stops on Sheppey Way with no footway along part of route. The bus stops provide access to half hourly services between Sittingbourne and Sheppey;
  - Approx 4km (2.5 miles) from Sittingbourne Town Centre.
- 8.24. In view of the above distances, it is acknowledged that there is some validity to the previous officer's assessment. However, Bramblefield Lane, which forms part of the National Cycle Network Route 1, provides a safe pedestrian/cycle route over the A249 to Kemsley and onward to Sittingbourne. The land north of Quinton Road development proposed under application ref. (18/502190/EIHYB) would straddle Bramblefield Lane on the eastern side of the A249 a short distance from the site and would include a

secondary school, primary school, mixed use local centre, land for a convenience store, public open space and children's play areas. The officer's report relating to the previous application identified that the application site is not sufficiently close to the land north of Quinton Road site to realise the benefits of this development without the use of the car. The Bramblefield Lane public footpath/cycle path was assessed as an isolated path with poor levels of surveillance which would discourage its use resulting in some residents opting to make trips by car. It is acknowledged that the footpath/cycleway is not lit which will discourage its use at night and particularly during the winter months. However, it is noted that the footway/cycleway will provide an approx. 0.5km (0.3 mile) route to the new schools and other proposed facilities and amenities whilst the equivalent journey by car will be 4.4km (2.7 miles) to 5.3km (3.3 miles) dependent upon the route. It is therefore considered that walking and cycling will represent an attractive option and the application site will be reasonably sustainably located, particularly when the land north of Quinton Road scheme is brought forward.

- 8.25. It should also be noted that the Council has accepted residential development on nearby sites. In considering application ref. 20/502715/OUT at Bobbing Car Breakers, located around 50m to the north-west of the site, the planning officer considered travel distances to the settlements of Iwade, Bobbing, Sittingbourne and Kemsley along with the amenities proposed under application ref. 18/502190EIHBYB and concluded that these could be accessed by non-car modes, albeit the proposal would result in a degree of reliance on private car use. The Council's Planning Committee resolved to approve an application for the erection of 42 dwellings on land immediately south of the site under application ref. 14/506167/OUT. The officer's report advised '...whilst the site could be more ideally located in terms of integration with existing settlements, I consider it to be a reasonably sustainable location for residential development.' This application was withdrawn prior to the completion of a legal agreement.
- 8.26. In terms of the SHLAA (detailed above) which identified the site as unsuitable for residential development on the basis that it is not sustainably located, it should be noted that it omits the pedestrian/cycle connection to Kemsley via Bramblefield Lane, and accordingly misrepresents the sustainability of the site's location.
- 8.27. Having re-considered this proposal in light of other decisions and officer recommendations within the vicinity of the site, it is considered that there are grounds to re-assess the locational sustainability of the site relative to the previous decision of the Council. It is considered that, whilst the distances to amenities and services and the opportunities for sustainable transport choices are less than ideal, the site does not occupy an isolated location. Therefore, whilst it remains the case that the proposal does not accord with the Council's Settlement Strategy and, as such, the proposal is contrary to Local Plan Policies ST 1, ST3 and CP 2, the harm arising in terms of locations sustainability is considered to be limited.

#### 5 Year Housing Land Supply

- 8.28. As noted above, the proposal conflicts with the settlement strategy set out under Local Plan policy ST 3 and supported by policy ST 1. It would also be contrary to Policy DM 25 which restricts development in the ILCG. Paragraph 11 of the NPPF states that

decisions should apply a presumption in favour of sustainable development and for decision-taking this means:

- c) approving development proposals that accord with the Development Plan without delay; or,
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - I. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,
  - II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

8.29. The Council can demonstrate a 4.1 year supply of housing. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the ‘Tilted Balance’ in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused.

8.30. The site is not allocated for residential development. It is located in the countryside and, as set out above, residential development conflicts with the Local Plan settlement strategy. Harm is identified in sustainable transport terms and harm is considered to arise from development in the ILCG, having regard to the characteristics of the site and the purposes of the ILCG. However, given the Council’s lack of a 5 YHLS, the ‘Tilted Balance’ is applied and the most important policies for determining the application are not afforded full weight. The erection of 42 dwellings including 40% affordable housing would contribute meaningfully towards addressing the borough’s lack of a 5-year housing land supply and would represent a substantial benefit. The subsequent sections of this report make an assessment of the impacts of the development and consideration of whether these would significantly and demonstrably outweigh the benefits. This is considered in the Planning Balance section of this report.

### **Loss of agricultural land**

8.31. Policy DM 31 of the Local Plan indicates that development on agricultural land will only be permitted where there is an overriding need that cannot be met on land within the built-up area boundaries. The policy indicates that development on Best and Most Versatile (BMV) agricultural land (identified as Grades 1, 2, and 3a) will not be permitted unless three criteria have been met.

8.32. NPPF paragraph 175 is concerned with allocating land for development which has the least environmental or amenity value where consistent with other policies in the Framework. Footnote 58 to this paragraph advises that where significant development of agricultural land is demonstrated to be necessary, areas of poorer land should be preferred to those of a higher quality.

- 8.33. The application advises that the site has not been used for agricultural purposes for over 25 years. The site has been used as a contractor's compound for significant periods of time over recent years and around two thirds of the site is covered by concrete hardstanding. The recent use of the site is anticipated to have compromised the soil structure on the site to the extent that it would no longer comprise best and most versatile land. Soil quality would normally be assessed through an Agricultural Land Classification (ALC) but this is not possible in this case due to the extensive coverage of the site with concrete and hardstanding. It is noted that Defra's Magic Map site which details the results of ALC studies undertaken locally indicates considerable local variation in soil quality with grades ranging from 1 to 3b. It is also noted that the application is accompanied by a Geo-Environmental Desk Study which indicates that the site may be contaminated which would further compromise agricultural use of the site.
- 8.34. In view of the above it is considered unreasonable to refuse the application on the grounds of the loss of Best and Most Versatile Agricultural Land, and this would be consistent with the approach taken under the previous application.
- 8.35. It is therefore considered that the proposal is acceptable in terms of loss of agricultural land and is in accordance with Local Plan policy DM 31 and the NPPF.

### **Size and Type of Housing**

- 8.36. Paragraph 9 of the NPPF states that sustainable development involves seeking positive improvements in the quality of the built environment, including widening the choice of high-quality homes. The NPPF recognises that in order to create sustainable, inclusive and diverse communities, a mix of housing types, which is based on demographic trends, market trends and the needs of different groups, should be provided.
- 8.37. Local Plan Policy CP 3 requires the mix of tenures and sizes of homes provided in any development to reflect local needs and the Strategic Housing Market Assessment. The supporting text to Local Plan policy CP 3 identifies an aspiration to deliver good quality family housing in this part of the borough. In 2020 the Council carried out a Housing Market Assessment (HMA) based upon a standard method for calculating the objectively assessed need.
- 8.38. The application seeks outline planning permission with all matters reserved except access. The Design and Access Statement provides an indicative mix of housing; however, the applicant has agreed that the proposed layout of the development will be revised to demonstrate an improved standard of design at reserved matters stage. Accordingly, the proposed mix of housing may be subject to change. The application indicates that the development will deliver 25 market units and 17 affordable units. The indicative Masterplan demonstrates that 42 family sized dwellings could be satisfactorily accommodated on the site. It is considered that the proposed development provides adequate scope to deliver a suitable mix of market and affordable dwellings to contribute to meeting local need and the specific unit mix can be assessed at reserved matters stage.



- 8.39. Having regard to the above officers consider that there is adequate scope to secure a scheme at reserved matters stage which satisfactorily complies with Local Plan Policy CP3.

### **Affordable Housing**

- 8.40. The NPPF sets out the requirement for setting appropriate affordable housing levels for new development based on up-to-date evidence. Local Plan policy DM 8 sets out that 40% affordable housing would be required from a residential development of this site.
- 8.41. The application proposes 40% affordable housing which equates to 17 units and meets the requirement of Local Plan policy DM 8. The Council's Affordable Housing Officer welcomes the proposed affordable housing and notes that delivery of 17 family sized units (40% of the proposed housing) will address a significant need in the borough. 90% of the affordable housing should be delivered as affordable rented/social rented tenure with the remaining 10% delivered as shared ownership tenure. The affordable housing should be well integrated into the development and should not be visually distinguishable from the market housing. The unit mix for the overall scheme including the affordable housing remains to be determined and this is a matter which can be addressed at reserved matters stage.

### Accessible and Adaptable Homes

- 8.42. In line with policies DM8 and CP3 of the Local Plan the affordable homes should be designed for use by disabled persons and made available for a variety of groups including families, vulnerable and older persons. As such, there should be a number of accessible and wheelchair adaptable homes provided. It is required that at least 10% of the social rented homes be built to Building Regulations Part M4(3) standard (wheelchair user dwelling) with the remaining affordable homes provided to Part M4(2) standard (accessible and adaptable dwellings). It is recommended that the accessible and adaptable homes are secured by planning condition (No. 35).
- 8.43. The proposals are considered consistent with policies DM8 and CP3 of the Local Plan and the NPPF and are therefore acceptable in terms of affordable housing.

### **Landscape and Visual**

- 8.44. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*' whilst paragraph 174 criterion b) states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
- 8.45. Local Plan policy DM24 states that the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced, and, where appropriate, managed. The policy further states at Part B that non-designated landscapes will be protected and enhanced, and planning permission will be granted subject to the minimisation and mitigation of adverse landscape impacts. When significant adverse impacts remain, the social and or economic benefits of the proposal need to significantly and demonstrably outweigh the harm to the landscape character and value of the area.

- 8.46. The application is accompanied a Landscape Visual Impact Assessment (LVIA) which provides an assessment of the landscape and visual effects of the development. The application site is not within a designated landscape area and is not noted for its special quality or character. The site is currently mostly disused and comprises areas of hardstanding and areas of rough grass and developing scrub, with security fencing to the western and southern boundaries.
- 8.47. The Landscape Assessment of Kent (2004) identifies the site within the ‘Fruit Belt’ character area. The condition of this character area is identified as very poor, with an ‘incoherent landscape pattern which has many detracting suburban and industrial influences, and main transport corridors’. The landscape sensitivity is assessed as low, with moderate visibility. The overall recommended landscape actions are to ‘create’ new landscape character and features.
- 8.48. The Swale Landscape Character and Biodiversity Appraisal identifies the site within the eastern part of Character Area 24, ‘Iwade Arable Farmlands’. The appraisal identifies that residential and commercial development, the A249 and overhead power lines have had a major impact upon the landscape. The character area is identified as being in a poor condition with a moderate degree of sensitivity. The landscape guidelines are to ‘restore and create’.
- 8.49. The Swale Landscape Sensitivity Assessment (SLSA) was produced in 2019 to assist with the development of the new Local Plan and consider the relative sensitivity of land around the main settlements in the borough to residential and employment development. The site is identified as lying within Area IE1/SE7 which includes the land to the west of the Sittingbourne urban area/ Kemsley and south and east of Iwade. The area is identified as being of low to moderate sensitivity to residential development and is the joint lowest level of sensitivity (along with 2 areas on the Isle of Sheppey) of any areas considered within the borough. The LVIA notes that Area IE1/ SE7 is quite varied and is largely rural to the west of Sheppey Way and therefore, given the characteristics of the application site, it is reasonable to assume that it would be of a lower level of sensitivity than the average for the area as a whole.
- 8.50. The LVIA identifies that the landscape around the site has a partly developed character as opposed to a rural one and the site does not have a rural character or tranquillity, including by reason of its location adjacent to the A249. There is limited visibility of the site from the surrounding landscape as it is contained by the domed landform of the adjacent field to the north, as well as hedges and trees further to the north, the dense planting alongside the A249 to the east, the large scale industrial buildings to the south and vegetation alongside Sheppey Way to the west. The LVIA identifies that whilst the development would be visible in short distance views it would not be unsightly or intrusive in the context of the existing buildings to the south and the containment which would be provided by the landscape buffers. There would be a high degree of landscape change within the site as a result of the proposed development but given the current disused and unsightly nature of the overall impact is assessed as positive. In terms of the wider landscape, the degree of change is assessed as medium with a number of positive elements such as the removal of unsightly features and the proposed landscape buffers along with negative effects

arising from additional built form. Overall, the effect on the wider landscape is assessed as marginally negative. Balancing these effects the LVIA concludes that the development would result in a neutral effect in the first year on the landscape on and around the site and, over time, the effects would be beneficial as the proposed landscaping and planting is established. It should be noted that, due to the contained nature of the site the landscape effects would not be experienced much beyond the site boundary in any case.

- 8.51. The LVIA notes that, in terms of visual impact, as the site is generally well contained and presently disused and unsightly, the proposed development would not result in significant visual effects for the adjacent property of Pheasants Farmhouse, Public Rights of Way or local roads. Consequently, where there are low level adverse effects they would decline over time to become neutral.
- 8.52. It is noted that, in the absence of development of the site, there is the prospect for the continuation of temporary uses of the land as have occurred over recent years, over which the Council may have limited control, and which would be likely to have adverse impacts in landscape and visual terms. The proposed development of the site would provide the opportunity to secure a scheme of landscaping which represents an opportunity to improve the current appearance of the site.
- 8.53. It is considered that, overall, the proposed development would not result in significant adverse impacts in landscape and visual terms. As such, the proposed development would be in accordance with the NPPF and Local Plan policy DM24.

### **Heritage**

- 8.54. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“PLBCAA”) provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 8.55. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 8.56. Local Plan Policy CP 8 states that development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and special identity. Policy DM32 relates to listed buildings and is clear that proposals affecting listed building must preserve the buildings setting and any features of special architectural or historic interest.
- 8.57. The previous application for residential development of the site (ref. 20/504794/OUT) was refused on grounds that it had not been demonstrated that the proposal would not

result in harm to the setting or significance of Grade II listed Pheasant Farmhouse. In response to this ground of refusal the applicant has submitted a Heritage Statement which concludes that the proposed development would result in a low level of less than substantial harm to the significance of Pheasant Farmhouse as a result of a change within the asset's setting and the resultant effect on the asset's sense of historic interest as a rural farmstead.

- 8.58. The Council's Heritage Manager has reviewed the Heritage Statement and agrees that harm would arise from the loss of the agricultural character of the setting of the farmhouse. However, there is disagreement with its conclusions that the proposed development would result in a low level of less than substantial harm and it is considered that the proposed development would give rise to a medium level of less than substantial harm. The Heritage Manager advises that the visually degraded character of the application site should not justify the proposed development. Furthermore, whilst the listed building sits behind a dense road frontage screening, its relative invisibility in its wider rural context should not justify the proposed development.
- 8.59. As noted earlier in this report it is considered unlikely that the application site would be returned to agricultural use and there is potential for it to be put to uses which would be harmful in visual terms and therefore harmful to the setting of Pheasant Farmhouse, as has occurred previously. Accordingly, the identified medium level of less than substantial should be balanced against the public benefits of the proposal in accordance with paragraph 208 of the NPPF.
- 8.60. The decision-maker needs to ensure that they give considerable importance and weight to any harm to the significance of a designated heritage asset, and ensure that the more important the asset, the more the weight that is given to the harm in the balancing exercise.
- 8.61. 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 in the Planning Balance section of this report, where the heritage harm is weighed against benefits and an assessment made of whether the application complies with Local Plan policies CP8 and DM32 and the provisions of the NPPF.
- 8.62. In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

### **Archaeology**

- 8.63. 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.
- 8.64. Policy DM34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to

preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.

- 8.65. The KCC archaeologist advises that the main archaeological potential of the site arises from its location alongside the key route through to the Sheppey crossing and the extensive prehistoric landscapes that are being discovered around Iwade, Bobbing and Kemsley on development sites in recent years. There are also mapped defences of the WW1 Chatham Land Front which cross Bramblefield Lane to the east. The KCC archaeologist advises that the potential impacts of the scheme on archaeology can be appropriately addressed through further assessment, evaluation and mitigation that can be secured through a condition on a consent for the present scheme.
- 8.66. Subject to such a condition, no objection is raised in relation to compliance with policy DM34 of the Local Plan which requires archaeological mitigation or the preservation of important archaeological features in situ.

### **Character and Appearance**

- 8.67. 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.
- 8.68. The National Design Guide illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. The Kent Design Guide seeks to provide a starting point for good design while retaining scope for creative, individual approaches to different buildings and different areas and provides criteria necessary for assessing planning applications.
- 8.69. The layout, appearance, scale and landscaping of the development are reserved for future consideration. The Council's Design Officer reviewed the indicative Masterplan which accompanied the application and advised that there was scope to improve the pattern and layout of streets, blocks and plots, whilst the scheme would benefit from the provision of open space to the centre of the development. The arrangement of car parking was also identified as an opportunity for improvement whilst the scheme would benefit from the provision of street trees. Noting that all matters other than access are reserved the applicant submitted a Design Principles Document which is intended to inform a revised proposal at reserved matters stage. The Design Officer has confirmed that the Design Principles provide sufficient comfort that a revised scheme could be secured which represents a high standard of design. Should planning permission be granted an informative will be included on the decision notice to note the requirement for a revised proposal.
- 8.70. It is anticipated that the reserved matters of scale and appearance could indicate dwellings that are sympathetically designed to be in keeping with local typologies that would assimilate well with the existing context. Any future reserved matters application that includes scale and appearance would need to set out the extent to which the development is consistent with the National Design Guide and Kent Design Guide (condition 5).

- 8.71. It is considered that appropriate details can be secured at reserved matters stage in order to ensure that the siting, scale, design, appearance and detail of the scheme represents a high-quality design that is appropriate to its surroundings in accordance with Local Plan policies CP 4 and DM 14.

### **Trees**

- 8.72. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through Policy DM29 of the Local Plan.
- 8.73. The application is accompanied by an Arboricultural Impact Assessment which identifies that there is one category C (low quality) tree within the application site and that this will require removal in order to facilitate the development. Some minor pruning of one group of trees outside of the site may also be required to facilitate security fencing, garage buildings or driveways; however, these works will not negatively impact the health or amenity of this tree group.
- 8.74. The Arboricultural Impact Assessment has been reviewed by the Council's Trees Officer who raises no objections to the proposals subject to conditions securing an Arboricultural Method Statement and details of protective fencing around areas identified for new planting in order to ensure that the soil structure is not damaged by machinery or the storage and mixing of materials.
- 8.75. It is anticipated that a good quality landscaping scheme including new tree planting can be secured at reserved matters stage. A landscaping condition (No. 6) is recommended which secures the proposed landscape and open space design principles.
- 8.76. The proposed development is considered acceptable in terms of trees and in accordance with Local Plan policy DM 29.

### **Ecology**

- 8.77. 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 CP7 and DM28 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.
- 8.78. 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.'

- 8.79. 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".
- 8.80. The application is accompanied by a Preliminary Ecological Appraisal (PEA) which identifies the presence or potential for protected and priority habitats and species within and around the application site and the potential for these features to be adversely affected without appropriate avoidance and mitigation measures. The application is also accompanied by a reptile survey. The findings of the reports are summarised as follows:
- A small population of reptiles have been recorded on site (1 x common lizard). A proposed reptile receptor site has been included within the north-east of the site and a proposed reptile translocation through habitat manipulation.
  - An on-site ephemeral waterbody was found to be dry therefore it is not considered that it is suitable for great crested newts during the breeding period.
  - A rabbit warren has been identified in the Site and the brash piles are suitable for resting and hibernating hedgehog. Precautionary methods for the clearance of the earth mound and brash piles have been recommended.
  - With regard to breeding birds, it is recommended that clearance of the brash piles and vegetation is undertaken outside the core bird breeding season.
  - Biodiversity enhancements are recommended which include generous native and nectar rich planting, installation of bird boxes, retention and creation of bird habitat and enhancements for hedgehogs.
- 8.81. The KCC Ecologist has reviewed the PEA and reptile survey and raises no objections to the proposals subject to conditions to secure a biodiversity method statement, biodiversity enhancements and a lighting design which follows best practice in relation to bats (Nos.16-18). The ecological mitigation strategy should include 13 x 13 cm holes cut into the base of fences to ensure connectivity is retained for hedgehogs. An informative is also recommended to address potential impacts upon breeding birds.

### **Biodiversity**

- 8.82. The application was submitted before Biodiversity Net Gain became a mandatory requirement. The KCC Ecology Officer notes that the proposals identify the potential to create new habitats around the site boundaries which could significantly improve the biodiversity value of the application site from its current predominantly low value arable use. It is advised that details of how the proposed development will compensate for the loss of important habitats such as hedgerows and deliver the required biodiversity net gain should be sought. A condition securing a Biodiversity Enhancement Plan is recommended.
- 8.83. Accordingly, it is considered that the proposal accords with Local Plan Policy DM 28 which requires 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.

### **Habitat Regulations**

- 8.84. The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale SPA, and Wetland of International Importance under the Ramsar Convention (Ramsar Site) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
- 8.85. SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 8.86. 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.
- 8.87. 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.
- 8.88. The duty applies when taking a decision (including a planning decision) that might affect the integrity of a protected site.
- 8.89. The Habitat Regulations state 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.
- 8.90. The Council may agree to the application only after having ascertained that it will not adversely affect the integrity of the protected sites.
- 8.91. A shadow Habitat Regulations Assessment (HRA) accompanied the previous application on the site (ref. 20/504794/OUT) and the KCC Ecologist has advised that the conclusions of the document are still valid. The HRA took disturbance/ recreational pressure and water quality 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 application ref. 20/504794/OUT follows the relevant case law associated with the Habitats Regulation. In order to mitigate impacts upon protected sites the applicant has agreed to contributions towards the Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS) (£328.27 per dwelling). Furthermore, the proposals incorporate measures to address contaminated land and groundwater risks in order to mitigate any adverse effect on the water environment.

- 8.92. A review of the HRA and Appropriate Assessment (AA) was undertaken, and officers are satisfied with the conclusion that the proposal would not result in an adverse impact on the designated sites if the proposed mitigation measures were implemented. This view was also agreed by the KCC Ecological Service whilst Natural England raise no objections subject to securing measures to mitigate recreational impacts on the designated sites. 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.
- 8.93. 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 CP7 and DM28 of the Local Plan.

### **Transport and Highways**

- 8.94. 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.”*
- 8.95. 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.”*
- 8.96. 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.
- 8.97. The access to the site will take the form of an improved priority junction with Sheppey Way. The application is accompanied by a Transport Statement (TS) which identifies that the proposed development would result in approximately 205 vehicular movements across the 12-hour weekday period (0700-1900). In view of the site’s accessibility to a range of primary routes the TS concludes that these vehicle trips will readily dissipate across the wider highway network with no significant impacts on highway capacity or amenity.

- 8.98. The sustainability of the proposed development in transport terms is considered above at paras. 8.22-8.27. Having regard to the location of the site in relation to amenities and services, public transport accessibility and the availability of pedestrian and cycling infrastructure, it is considered that there will be a degree of harm in sustainable transport terms.
- 8.99. National Highways raise no objections to the proposed development subject to conditions to secure restrictions on planting or boundary features oversailing highways land, details to address surface water run-off onto the highways, and a Construction Management Plan.
- 8.100. KCC Highways raise no objections to the proposal subject to conditions to secure the following:
- A Construction Management Plan (No. 24);
  - Details of car and cycle parking in accordance with Residential Parking SPD and Local Plan requirements (Nos. 26 and 27);
  - Electric Vehicle Charging Points to all dwellings (No. 25);
  - Details of roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture (No. 28);
  - Completion of highways works between dwellings and the adopted highway prior to the occupation of the dwellings (No. 29);
  - Provision and maintenance of visibility splays (No. 30);
  - Completion of highways works relating to proposed site access prior to first occupation (No. 30).
- 8.101. It has been demonstrated that the proposal would not result in unacceptable impacts on highway safety and the road network which the NPPF states would warrant refusal of planning permission. Accordingly, the proposal is considered acceptable in highways terms and is in accordance with the NPPF and the Local Plan.

### **Car and Cycle Parking**

- 8.102. The Swale Car Parking SPD includes recommended residential car parking standards. Details of car parking to individual units will be assessed at reserved matters stage. However, the indicative Masterplan adequately demonstrates that a reserved matters scheme could be brought forward which provides car parking provision to comply with the recommended standards. Accordingly, the proposal can comply with Local Plan Policy DM 7 requirement for compliance with the Swale Vehicle Parking SPD.
- 8.103. Cycle parking will be required to accord with policy requirements and this will be addressed at the detailed application stage. It is anticipated that cycle parking will be provided within sheds/stores to the houses. Accordingly, the proposal can comply with the requirement of Policy DM 7 to provide cycle parking facilities of an appropriate design and in a convenient, safe, secure and sheltered location.

## Air Quality

- 8.104. 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.
- 8.105. 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.
- 8.106. 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.....”*
- 8.107. Local Plan Policy DM6 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.
- 8.108. The application is accompanied by an Air Quality Assessment (AQA) which identifies a risk to air quality from dust during the construction phase and from vehicular emissions during the operational stage. The construction stage impacts can be mitigated through the implementation of best practice measures to minimise the impacts of dust from construction activity. The AQA proposes a series of mitigation measures in line with recommendations within the Swale Air Quality and Planning Technical Guidance (AQPT) as follows:-
- All gas-fired boilers to meet a minimum standard of <40mgNO<sub>x</sub>/kWh;
  - 1 active electric vehicle charging point per dwelling;
  - Active and passive electric vehicle charging points to unallocated and visitor car parking spaces;
  - Construction stage mitigation in accordance with the Institute of Air Quality Management (IAQM) ‘Guidance on the Assessment of Dust from Demolition and Construction’.
- 8.109. The applicant has calculated a total 5 year air quality damage cost of £14,659 in line with the AQPT and this sum will be secured through the Section 106 legal agreement. The costs of on-site air quality mitigation measures will be deducted from the sum payable, with any surplus allocated to the funding of wider air quality mitigation measures. Some of the identified mitigation measures are standard requirements

which would otherwise be secured in line with Local Plan policy and guidance. Accordingly, it is recommended that a revised series of mitigation measures be secured by condition (No.42).

- 8.110. The Council's Environmental Health Public Protection Officer raises no objections to the proposal in terms of air quality subject to securing a Code of Construction Practice to address dust at construction stage (condition 25).
- 8.111. Subject to the recommended conditions the development would be acceptable in terms of air quality and would accord with Local Plan Policy DM6 and the NPPF.

### Open Space

- 8.112. Policy OS11 of the Policy Local Plan Policy CP7 requires developments to promote the expansion of Swale's natural assets and green infrastructure. Policy DM17 of the Local Plan sets out that new housing development should make provision for appropriate outdoor recreation and play space proportionate to the likely number of people who will live there. Policy DM17 sets out various open space typologies and the amounts of space that would be required for residential development. The table below compares the proposal to the open space requirements.

Typology	Policy DM17 requirement (ha per 1,000 person)	Scheme requirement (ha)	Proposed (ha)	Difference (ha)
Parks and gardens	1.11	0.11	TBC	TBC
Natural and semi natural greenspace	4.36	0.44	0.28	-0.16
Formal outdoor sport	1.09	0.11	Nil	-0.11
Amenity Greenspace	0.45	0.04	TBC	TBC
Provision for children and young people	0.24	0.02	TBC	TBC
Formal Play facilities			on site	
Allotments	0.2	0.02	Nil	-0.02
<b>Total</b>		<b>0.74</b>		

- 8.113. The scheme is in outline form with all matters reserved except means of access. In terms of open space provision, the application is accompanied by a parameter plan which identifies a residential area and open space. The identified area of open space is approx. 0.28ha and will primarily comprise accessible landscape buffer and public open space along the western and northern boundaries of the site. This open space can be considered to fall under the natural and semi-natural green space typology and there will remain an approx. 0.16ha shortfall of this typology. The remaining shortfalls are not known at this stage as layout and landscaping are reserved matters and it is

anticipated that the design of the development will be revised at reserved matters stage.

- 8.114. It is anticipated that further open space will be provided within the identified residential development area and the Design Principles document identifies that a local area play will be incorporated on-site. The scheme would give rise to a requirement for a financial contribution towards off site play/fitness provision of £512.80 per dwelling in line with the Council's Open Spaces and Play Area Strategy. However, the Council's Open Space Officer has confirmed that this requirement would be waived subject to satisfactory on-site play provision. A play area would form part of a reserved matters submission and therefore the applicant has agreed that the Section 106 legal agreement will secure the financial contribution; however, the obligation will fall away if a suitably located play area of adequate size and standard is provided on-site.
- 8.115. The Design Principles document also indicates the proposed development will incorporate a central open space for play, recreation and amenity. It is anticipated that this provision will go some way to addressing the parks and gardens and amenity greenspace requirements of the development.
- 8.116. There will be a shortfall in formal outdoor sport. In line with the Council's Open Spaces and Play Area Strategy a financial contribution of £681.81 per dwelling will be payable towards off-site formal sports provision in the Sittingbourne area. In view of this contribution the shortfall in formal sports provision is considered acceptable.
- 8.117. There will be a shortfall in provision of allotments. In view of the location of the site there are no existing allotments within a reasonable distance of the site. Given the relatively modest (0.02ha) shortfall and the absence of local provision the shortfall can be accepted in this case.
- 8.118. It is noted that the Masterplan layout indicates family housing which benefit from private gardens which will provide some outdoor amenity space for future residents of the development. It is also noted that the scheme approved under application 18/502190/EIHYB includes substantial open space incorporating several typologies which will be readily accessible to residents of the proposed development via Bramblefield Lane.
- 8.119. Taking account of the on-site proposals and the future proximity of existing public open space and subject to a planning obligation to fund capacity enhancements sufficient to cater for the uplift in residents that would be living on the site, the proposal is acceptable in terms of open space and is therefore in accordance with Policy DM 17 of the Local Plan.

### **Community Infrastructure**

- 8.120. The National Planning Policy Framework attaches importance to ensuring that a sufficient choice of school places are available to meet the needs of existing and new communities. This is reflected in Policies CP5 and CP6 of the Local Plan, which set out that provision shall be made to accommodate local community services, social care and health facilities within new developments.

8.121. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is:

- Necessary
- Related to the development
- Reasonably related in scale and kind

8.122. The following planning obligations would be necessary to mitigate the impact of the development and make it acceptable in planning terms. The obligations have been identified and assessed by Officers to comply with the Regulations (as amended).

<b>Requirement</b>	<b>Value</b>	<b>Towards</b>
<b>Ecology</b>		
SAMMS payment	£328.27 per dwelling	North Kent Strategic Access Management and Monitoring Strategy.
<b>Education</b>		
Primary Education Contribution	£297,410.40 (£7,081.20 per applicable house)	The construction of a new primary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or new primary school in Sittingbourne.
Secondary Education Contribution	£234,661.98 (£5,587.19 per applicable house)	Towards a new secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or a new secondary school in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning group areas.
Special Educational Needs and Disabilities (SEND) Contribution	£559.83 per applicable house	Special Education Needs (SEND) contribution to be applied towards additional places in Swale district.
Community Learning and Skills	£1,436.82 (£34.21 per dwelling)	Community Learning Project details contribution to be applied towards/ or additional equipment and resources for adult education centres serving the development, including outreach provision.
<b>Community</b>		
Integrated Children's Services	£3,110.10 (£74.05 per dwelling)	Financial contribution towards additional equipment and resources for the Integrated Children's Services in Sittingbourne including outreach provision.
Library, Registrations and Archives Service	£2,630.46 (£62.63 per dwelling)	Financial contribution towards additional resources, equipment

		and book stock (including reconfiguration of space) at local libraries serving the development including Sittingbourne.
Adult Social Care	£7,596.96 (£180.88 per dwelling)	Financial contribution towards specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting community facilities, sensory facilities, and Changing Places within Swale.
<b>Waste</b>		
Refuse	£8,153.46 (£194.13 per dwelling)	Financial contribution towards additional capacity at Sittingbourne Household Waste Recycling Centre and Sittingbourne Waste Transfer Station.
Refuse and Recycling Bins	<u>Each house</u> 180ltr green bin for refuse £51.20 240ltr blue bin for recycling £51.20 23ltr food bin £11.90 5ltr food caddy £6	Bin provision
<b>Health care</b>		
NHS (Integrated Care Board)	£36,288.00	Financial contribution towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.
<b>Air Quality</b>		
Air Quality Damage Cost contribution	£14,659	On-site or off-site air quality mitigation measures
<b>Formal Sports and play/fitness provision</b>		
Off-site formal sports provision	£28,636.02 (£681.81 per dwelling)	Fitness and formal sports facilities in Sittingbourne area.
On site play area or financial contribution towards off site play/fitness provision	£21,537.60 (£512.80 per dwelling) in the absence of satisfactory on-site provision	Children's play areas and outdoor fitness facilities in Sittingbourne area.
<b>Monitoring</b>		

Monitoring fee	£tbc	Contribution to cover the cost of monitoring the delivery of various planning obligations
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- 8.123. Kent County Council in its capacity as education provider, has a duty to ensure that adequate school places are provided to accommodate current and future projections for primary school and secondary needs.

### **Flood Risk, Drainage and Surface Water**

- 8.124. 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.
- 8.125. The application site lies within Flood Zone 1 and therefore has a low tidal and fluvial flood risk. The application is accompanied by a Flood Risk Assessment which identifies that the site has a low overall risk of flooding from all other sources.
- 8.126. Most of the site is classified as having a very low risk of surface water flooding; however, a part of the site at the north-west corner is identified as having a high risk. Surface water flood risk can give rise to a requirement for a Sequential Test which is intended to direct new development to areas with the lowest risk of flooding. However, the NPPG advises that a sequential test may not be required if development can be laid out so that only elements such as public open space, biodiversity and amenity areas are in areas at risk of any source of current or future flooding. The applicant has submitted a parameter plan which excludes all development from the area at high risk of surface water flooding and identifies this area for open space. On this basis, a Sequential Test has not been required to accompany the application.
- 8.127. Lower Medway Internal Drainage Board note that the site lies within catchments which ultimately drain into the Board's district and a land drainage consent will be required. The Board raise no objections to the proposed development subject to conditions to secure details of a surface water drainage scheme and its subsequent verification and maintenance as well as details of construction stage surface water drainage.
- 8.128. KCC Flood and Water Management raise no objections to the proposed development subject to conditions securing details of surface water drainage and subsequent verification.
- 8.129. Southern Water raise no objections to the proposals in terms of surface water drainage.
- 8.130. In view of the above it is anticipated that the proposals will satisfy the requirements of Local Plan policy DM21 to include sustainable drainage systems to restrict runoff to an appropriate discharge rate, maintain or improve the quality of the receiving watercourse, enhance biodiversity and amenity and increase the potential for grey water recycling. It is therefore considered that the proposals are in accordance with Policy DM 21 of the Local Plan and the NPPF.



## **Contamination**

- 8.131. 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.
- 8.132. The application is accompanied by a Geo-environmental Desk Study which identifies potential sources of contamination at the site arising from previous land uses at the site. The Study recommends that a Phase 2 intrusive ground investigation is undertaken to establish the extent of ground contamination on the site.
- 8.133. The Council's Public Protection Officer has reviewed the Desk Study and agrees the recommendation. A contaminated land investigation, a programme of remediation and subsequent verification should be secured by condition (Nos. 14 and 15).
- 8.134. In view of the above the proposals are considered acceptable in relation to contamination and are therefore in accordance with the Local Plan and the NPPF.

## **Living Conditions**

### *Existing residents*

- 8.135. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 8.136. The nearest neighbouring residential dwellings are on the opposite side of Sheppey Way. The application seeks outline planning permission and accordingly the masterplan layout is indicative only and subject to change at reserved matters stage. However, the indicative masterplan layout indicates that the proposed quantum of development could be accommodated within the site without any undue harm to the residential amenities of the occupants of nearby dwellings by reason of overlooking, loss of daylight and/or sunlight, visual impact and noise and disturbance.

### *Future residents*

- 8.138. New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government's minimum internal space standards for new dwellings.
- 8.139. As noted above, the masterplan layout is indicative only and subject to revision. However, the layout demonstrates that 42 residential dwellings could be satisfactorily accommodated on the site whilst providing adequate separation between dwellings to ensure sufficient outlook and privacy for occupants of the dwellings.
- 8.140. Approval of the detailed internal layouts of the proposed accommodation is not sought at this stage. However, the indicative masterplan is considered to demonstrate adequate space to accommodate dwellings which would provide an appropriate standard of internal accommodation subject to details to be submitted at reserved matters stage.
- 8.141. The indicative masterplan layout demonstrates scope to provide adequate private amenity space in the form of rear gardens for the proposed houses.

- 8.142. The indicative masterplan indicates that the site could accommodate a development which is acceptable in terms of the living conditions of both future occupiers and the occupiers of existing nearby residential properties. The proposal is therefore considered to be in accordance with the Local Plan and the NPPF.

### **Sustainability / Energy**

- 8.143. Policy DM 19 of the Local Plan requires development proposals to include measures to address climate change. Details of sustainable design and construction measures to minimise environmental impacts can be secured at detailed stage and may include measures such as electric vehicle charging points (provision of one per dwelling); solar panels; passive energy measures; and/or low NOx boilers as examples.
- 8.144. The application is accompanied by an Outline Energy Strategy which identifies air source heat pumps and photovoltaic panels as means of reducing the carbon emissions from the development in line with policy DM19.
- 8.145. The Council's Climate Change Officer has reviewed the Outline Energy Strategy and welcomes the proposed carbon reduction measures which can be secured by condition (No. 34). It is noted that there is no reference to electric vehicle charging provision or measures to reduce domestic water consumption; however, these can be secured by condition (No. 35).
- 8.146. In view of the above it is considered that the proposals are acceptable in terms of sustainability and energy and will comply with Local Plan policy DM19.

### **Noise**

- 8.147. The NPPF states that planning decisions should ensure that noise from new development is mitigated and potential adverse impacts are reduced to a minimum.
- 8.148. The application is accompanied by a Noise Impact Assessment which establishes that an acceptable level of internal amenity can be achieved, provided the recommendations for glazing and ventilation are followed. The Council's Public Protection Officer advises that, as the details for the glazing and ventilation to be used are yet to be specified, these details are secured by condition (No. 36).
- 8.149. The Noise Impact Assessment identifies that the external noise will be around 10dB above the higher BS 8233 guideline for external amenity. The Assessment does not make any recommendations in terms of mitigation measures and suggests that these should be considered at the detailed design stage; however, the Planning Statement proposes the use of 1.8m acoustic fencing. The Council's Public Protection Officer recommends that details of acoustic fencing be secured by condition (No. 37).
- 8.150. In view of the above the proposed development is considered acceptable in terms of noise and in accordance with the provisions of the NPPF.

### **Other matters**

- 8.151. Iwade Parish Council have raised concerns that the adjacent site to the north could be the subject of a planning application for further housing development. Any potential

future planning application on the adjacent site is not a material consideration relevant to assessment of this application.

### **The Planning Balance**

- 8.152. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Under s70(2) of the Town and Country Planning Act 1990, the decision-maker needs to have regard to the provisions of the development plan and any other material considerations.
- 8.153. The previous application on the site was refused on grounds including development within the ILCG and in an unsustainable location, and failure to demonstrate that the proposal would not cause harm to heritage assets. The proposal has been revised to seek to address the previous grounds of refusal and the proposal has been re-appraised having regard to the previous decision, as set out in the Principle section of this report. The
- 8.154. The Council presently cannot demonstrate a 5YHLS Council can demonstrate a 4.1-year supply of housing. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the 'Tilted Balance' in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused. It is therefore necessary to consider the benefits and disbenefits of the proposal in order to determine whether there are adverse impacts which would justify a refusal of planning permission.
- 8.155. It is considered that the proposal will result in disbenefits arising from conflict with Policies case Local Plan Policies ST1, ST3, ST5, CP2 and DM25. As noted above, **moderate weight** is afforded to harm arising from development in the ILCG and **limited weight** is afforded to the harm arising from the locational sustainability of the site. Noting the 5YHLS and the appeal decisions detailed at paras. 2.16-2.17, **moderate weight** is afforded to the conflict with the Swale Settlement Strategy.
- 8.156. Officers consider that the proposed development would deliver the following benefits:
- Housing and affordable housing
  - Employment and economic activity
  - Ecology and biodiversity
  - Design and appearance
  - Sustainability and carbon reduction
  - Local finance considerations.

#### Housing and affordable housing

- 8.157. The erection of 42 dwellings, including 40% affordable housing to address a pressing need, would contribute towards addressing the lack of 5 YHLS within the borough. Given the Framework's general imperative to boost the supply of housing, this is an important factor weighing in favour of the application. Overall, it is considered that the

delivery of housing and affordable housing is a benefit which should be afforded **substantial weight**.

#### Employment and economic activity

- 8.158. New residents who will use local services and facilities and facilitate potential future growth opportunities which meet the economic and social objectives of sustainable development at paragraph 8 of the NPPF.
- 8.159. The development would bring forward jobs and spending during the construction phase. Paragraph 81 of the NPPF advises that significant weight should be placed on the benefit a scheme offers in supporting economic growth and productivity; however, this weight is moderated on the basis that these benefits will be limited to the construction phase. Overall, **moderate weight** is afforded to the employment and economic activity benefits of the development.

#### Ecology and Biodiversity

- 8.160. Whilst landscaping is a reserved matter, the indicative plans and documents show that the emerging proposals would provide suitable landscaping and planting in and around the site (subject to details being secured at the reserved matters stage) which would provide ecological and biodiversity enhancements. This is a normal planning requirement and is therefore attributed **limited weight** in the planning balance.

#### Design and appearance

- 8.161. As an Outline application, matters of layout, scale, appearance and landscaping are not for determination. However, the application includes an indicative Masterplan layout and a Design and Access Statement which demonstrate how the site could be developed to deliver a high quality and distinctive development and **limited weight** is afforded to this benefit.

#### Sustainability and carbon reduction

- 8.162. The proposed development would comply with Local Plan policy and Building Regulations requirements in respect of sustainability and energy consumption which would be a normal planning and Building Regulation requirement. Accordingly, **limited weight** can be afforded to this benefit.

#### Local finance considerations

- 8.163. The Town and Country Planning Act 1990 sets out general considerations in the determination of applications states the following:

*“In dealing with an application the authority shall have regard to  
(a) the provisions of the development plan, as far as material to the application,  
(b) any local finance considerations, as far as material to the application, and  
(c) any other material considerations.”*

- 8.164. The application proposes 42 new dwellings with associated Council tax being received from occupiers and able to be used by the Borough to carry out its statutory functions. The funding is needed to mitigate the impacts of the development and **limited weight** is afforded to this benefit in the planning balance.

### Heritage impacts

- 8.165. As is set out in Section 7.9 of this report, the development would result in harm to the setting of the Grade II listed Pheasant Farmhouse. The level of harm is considered to amount to a medium level of 'less than substantial' harm. Even in cases where the heritage harm falls in the 'less than substantial' category, as is the case here, this still requires being given great weight and importance in the planning balance.
- 8.166. Officers have been mindful of the statutory duty to do no harm and have placed great weight and importance on the fact that less than substantial harm would be caused to the designated heritage asset.
- 8.167. The proposal would bring forward public benefits identified in this section including the delivery of housing which is afforded substantial weight. The proposal would bring forward employment and economic benefits which are public benefits afforded moderate weight. The further benefits identified above are also considered to represent public benefits which would be afforded limited weight.
- 8.168. In light of the benefits identified, in particular the substantial benefit arising from the delivery of housing and given the medium degree of less than substantial harm to the Grade II listed Pheasant Farmhouse it is considered that the public benefits are sufficient to outweigh the heritage harm. Officers are therefore of the view that the proposals are in accordance with Local Plan policies CP8 and DM32 and the provisions of the NPPF.
- 8.169. In considering the impact of this proposal on designated heritage assets, officers have had regard to the Council's obligations pursuant to s16, s66 and s72 of the Planning (Listed Building and Conservation Areas Act) 1990.

### Planning Balance – Conclusion

- 8.170. The above assessment identifies a series of benefits which weigh in favour of the proposal. In particular, the delivery of 42 units of housing including 40% affordable housing is considered to be a benefit which can be afforded substantial weight. The benefits identified above are considered to substantially outweigh the identified disbenefits arising from conflict with Local Plan policy. Accordingly, the proposal is considered acceptable, and it is recommended that planning permission be granted subject to conditions and the prior completion of a Section 106 agreement.

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

### CONDITIONS

#### **1. Reserved Matters**

Details relating to the appearance, landscaping, layout, and scale of the proposed dwelling(s) (hereinafter called the 'reserved matters') shall be submitted to and approved by the Local Planning Authority before any

development is commenced and the development shall be carried out as approved.

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

## **2. Time Limit – Reserved Matters**

Application for approval of reserved matters referred to in Condition (1) must be made to the local planning authority no later than the expiration of three years beginning with the date of the grant of outline planning permission.

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

## **3. Reserved Matters**

The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

## **4. Approved Plans**

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

60624620-04001 Rev. C Parameter Plan Land Use  
Design Principles 17161-DP01

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with this application.

## **5. Reserved Matters**

The application(s) for Reserved Matters of the development hereby permitted shall incorporate the measures set out in the Design Principles approved under this application and shall demonstrate the extent to which the proposals are consistent with the National Design Guide and Kent Design Guide..

Reason: In order to ensure the development delivers a high-quality design and place making.

## **6. Landscaping**

Any reserved matters application(s) which covers the matter of 'Landscaping' shall include:

- Plans, drawings, sections, and specifications to explain full details of the hard and soft landscaping treatment and works including: planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant

sizes, numbers and densities where appropriate, materials (size, type and colour), proposed drainage arrangements, children's play equipment, street furniture, lighting columns, private and communal areas, open spaces, edges, boundary treatments, public rights of way and roads;

- Tree planting details (including street trees and hedge rows) and specification of all planting in hard and soft landscaped areas.
- An accessible landscape buffer and public open space along the western, northern and northeast boundaries.
- Landscaping which seeks to enhance the existing features and complement these with new planting by working with the existing landscape structure and retaining existing planting.
- A Local Area Play
- Planting across the developable residential area integrating trees and soft landscaping into streets.
- A central open space for play, recreation and amenity within the developable residential area.
- Roadside verges landscaped with amenity grass and a selection of native trees of varying scales.
- The open space details shall demonstrate that there will be no Sustainable Urban Drainage Systems located within private gardens or play areas.
- Details of the programme for implementing and completing the planting.
- A detail for any temporary construction measures, products or construction methods that are specified.
- Details of a proposed watching brief, monitoring or reporting.
- A landscaping management and maintenance plan.

Reason: In order that the Reserved Matters Applications can be properly considered and assessed, in the interests of proper planning.

## **7. Landscaping**

All new planting, seeding or turfing comprised in the landscaping reserved matters shall be carried out in the first planting and seeding seasons following the completion of any particular phase. Any trees or plants, including retained trees and shrubs identified in the landscaping reserved matters, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

## **8. Arboricultural Method Statement**

No development including site clearance and demolition shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots and, for example, take account of site access, demolition

and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme and include a tree protection plan.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

#### **9. Protection of New Areas of Structural Planting**

No development shall commence until details of protection for ground designated for new structural planting in accordance with the current edition of BS 5837, have been submitted to and approved in writing by the local planning authority. All planting to be retained must be protected by barriers and/or ground protection.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

#### **10. Secure by Design**

The details submitted pursuant to condition (1) (the reserved matters) shall include details demonstrating how the development meets the principles of 'secure by design'.

Reason: In the interests of crime prevention and safety

#### **11. Limits**

The quantum of residential units to be constructed for the development hereby approved shall be limited to a maximum of 42 units.

Reason: To ensure that the development is carried out in accordance with the submitted with the application.

#### **12. Archaeological Works**

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 Local Plan policies and the National Planning Policy Framework.

### **13. Contaminated Land**

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

1. A site investigation, based upon the Aecom Geo-environmental Desk Study Report (April 2015) and Addendum (26 March 2020), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
2. A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. 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: To ensure that any ground contamination on the site is identified and remediated and in the interests of the wellbeing of future occupants.

**14. Contaminated Land Verification Report**

Prior to the first occupation of the development a closure report shall be submitted for approval to the local planning authority. The closure report shall include full verification details as set out in the approved remediation strategy. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

Reason: To ensure that any ground contamination on the site is identified and remediated and in the interests of the wellbeing of future occupants.

**15. Biodiversity Method Statement**

No development shall commence (including site clearance) until a Biodiversity Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall be based on the recommendations of an updated site visit, the Preliminary Ecological Appraisal and Reptile Survey Report by Corylus Ecology and shall provide detailed mitigation measures to be carried on site, together with a timetable for implementation. The development shall be carried out in accordance with the approved details.

Reason: Reason: In the interests of protecting any reptiles and other protected species present on the site.

**16. Biodiversity Enhancement**

With the submission of the reserved matters application details of how the development will enhance biodiversity will be submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with provision of native species planting. The approved details will be implemented and thereafter retained.

Reason: To ensure that the losses of biodiversity can be compensated for and a net gain in biodiversity delivered in accordance with the requirements of the NPPF (September 2023), and that the proposed design, specification and planting can demonstrate this. 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.

**17. Lighting Scheme**

Prior to the installation of any external lighting, a lighting design strategy shall be submitted to and approved in writing by the Local Planning Authority. The lighting design shall follow the recommendations within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals. All external lighting shall be installed in

accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.

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

### **18. Surface Water 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 and Foul Water Drainage Strategies report prepared by AECOM (25 July 2023) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall address the viability of infiltration SUDS, clarify the outfall arrangements, confirm no land raising and no loss of storage, and address the requirements for any easement for the surface water drain run/open ditch outside the red line boundary. The drainage scheme shall also demonstrate (with reference to published guidance):

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

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

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

### **19. Surface Water Drainage Scheme Verification Report**

No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain

information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 169 of the National Planning Policy Framework.

## **20. SUDS Maintenance**

Prior to the commencement of 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 SuDS should be located in accessible areas, and the plan should include addressing the frequency of maintenance for each SuDS feature 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.

## **21. 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.

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.

## **22. 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
- 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 arrangements for public consultation and liaison during the construction works

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

## **23. Construction Management Plan**

Development shall not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with KCC Highways and National Highways. The approved plan shall be strictly adhered to throughout the construction period. The plan shall include as a minimum:

- Site hours of operation; numbers, frequency, routing and type of vehicles visiting the site (including measures to limit delivery journeys on the SRN during highway peak hours such as the use vehicle booking systems etc);
- Measures to ensure that HGV loads are adequately secured;
- Travel Plan and guided access/egress and parking arrangements for site workers, visitors and deliveries;

- Sheeting of loose loads and wheel washing and other facilities to prevent dust, dirt, detritus etc from entering the public highway and details of contingency working protocol for action taken should the wheel washing be ineffective, and spoil is dragged onto the highway
- Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.

Reason: In the interests of the amenities of the area and highway safety and convenience and to mitigate any adverse impact from the development on the surrounding highways network in accordance with DfT Circular 01/2022 and section 10 of the Highways Act 1980. These details are required prior to commencement in order to ensure that satisfactory measures are in place prior to any construction activity.

#### **24. Electrical vehicle charging**

No dwelling shall be occupied until full details of the electric vehicle charging have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall then be implemented for each house before the dwelling in question is first occupied. All Electric Vehicle chargers must be provided to Mode 3 standard (providing up to 7kw). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:

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

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

#### **25. Cycle storage**

No dwelling shall be occupied or the approved use commenced until space has been laid out for cycles to be securely sheltered and stored for that dwelling within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

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

#### **26. Car Parking**

No dwelling shall be occupied until vehicle parking spaces has been provided, surfaced and drained to the satisfaction of the Local Planning Authority in accordance with the adopted parking standards, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-

enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

### **27.Highways Works**

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

Reason: In the interests of highway and pedestrian safety, adequate drainage and convenience.

### **28.Highways Works**

The following works between a dwelling and the adopted highway shall be completed prior to first occupation of the dwelling:

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

Reason: In the interests of highway and pedestrian safety, adequate drainage and convenience.

### **29.Highways Improvements and Visibility Splays**

Prior to first use of the development hereby permitted the highways improvements and visibility splays indicated on plan references 14354-H-01 Rev. P3 and 14354-H-02 Rev. P4 shall be provided. The visibility splays shall thereafter be maintained with no obstructions over 1.05 metres above carriageway level within the splays.

Reasons: In the interests of highway and pedestrian safety and to ensure that the A249 Trunk Road continue to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980, to satisfy the reasonable requirements of road safety.

### **30.Travel Plan**

The development hereby permitted shall not be occupied unless and until a comprehensive Full Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Full Travel Plan shall be prepared in line with prevailing policy and best practice and shall include as a minimum:

- the identification of targets for trip reduction and modal shift;
- the measures to be implemented to meet these targets including an accessibility strategy to specifically address the needs of residents with limited mobility requirements;
- the mechanisms for monitoring and review;
- the mechanisms for reporting;
- the remedial measures to be applied in the event that targets are not met;
- the mechanisms to secure variations to the Travel Plan following monitoring and reviews.

The development shall only be occupied in accordance with the approved Travel Plan which shall remain in perpetuity unless otherwise amended in accordance with a review to be agreed in writing by the Local Planning Authority.

Reason: In order to minimise the use of the private car and promote the use of sustainable modes of transport.

### **31. Planting and Boundary Features**

Any planting or boundary features must be located such that they do not require any trespass or oversailing of National Highways land or assets as part of their construction/planting, maintenance or replacement.

Reason: To ensure that the A249 Trunk Road continue to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980, to satisfy the reasonable requirements of road safety.

### **32. Surface Water Run-Off**

No surface water shall be permitted to run off from the development hereby permitted on to the highway or into any drainage system connected to the highway. No works shall commence on the site until details of works providing the connection from the site to downstream riparian system have been submitted to and approved in writing by the local planning authority (who shall consult National Highways). The drainage details shall comply with DfT Circular 01/22 Paragraph 59. Thereafter the works shall be carried out in accordance with the approved details.

Reason: To ensure that the A249 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980, to satisfy the reasonable requirements of road safety.

### **33. Energy**

The details submitted pursuant to condition (1) (the reserved matters) shall include details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and



construction waste shall be submitted to and approved in writing by the Local Planning Authority.

The details shall demonstrate that at least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended) will be achieved.

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

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

#### **34. Water Consumption**

The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day.

Reason: In the interests of water conservation and sustainability.

#### **35. Accessible and Adaptable Dwellings**

At least 10% of the affordable units hereby permitted shall be built to M4(3) of building regulations standards and all of the remaining units will be built to M4(2) of building regulations standards unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to secure accessible and adaptable dwellings.

#### **36. Noise**

Prior to the commencement of development details of noise mitigation measures which shall include acoustic fencing, suitable glazing and mechanical ventilation as appropriate. Upon approval by the Local Planning Authority the noise mitigation measures shall be implemented in full prior to occupation of the premises and retained thereafter.

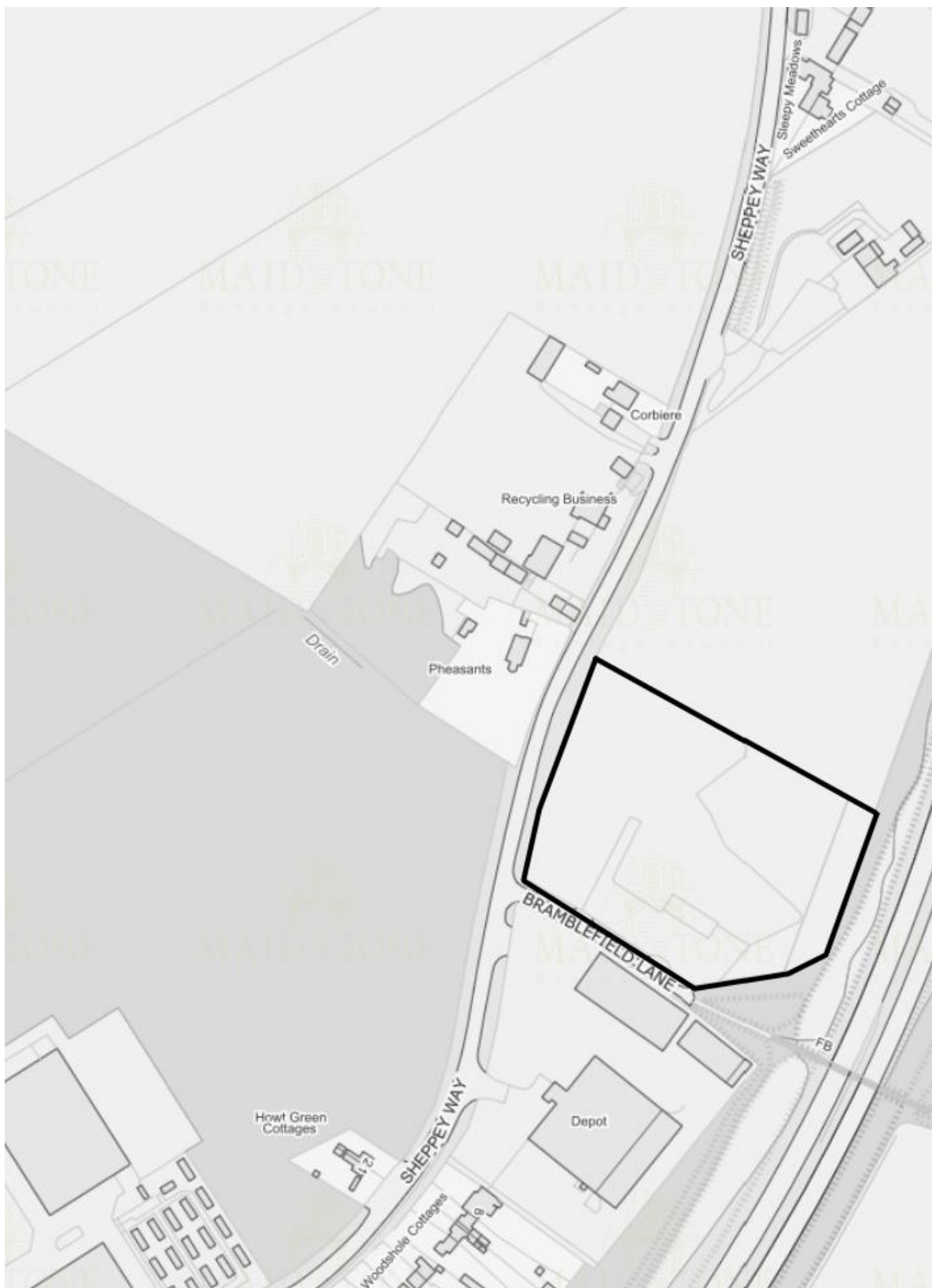
Reason: To protect the amenities of any future residents and to ensure acceptable external and internal noise levels are specified and achieved. These details are required prior to the commencement of development in order to ensure that the development as built will provide satisfactory living conditions for future occupants.

#### **37. Air Quality Assessment**

Within 3 months of commencing development a scheme for the mitigation of poor air quality arising from the development shall be submitted to and approved in writing by the Local Planning Authority. The cost of mitigation measures shall at least equate to the amount calculated in the Damage Cost Assessment.

The approved scheme of mitigation shall be implemented prior to the first occupation of the development and maintained thereafter.

Reason: To mitigate air quality impacts. These details 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.



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**PLANNING COMMITTEE – 10<sup>th</sup> October 2024**

**PART 3**

Report of the Head of Planning

**PART 3**

Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO</b> 24/503608/PNQCLA		
<b>PROPOSAL</b> Prior notification for the change of use of a building and any land within its curtilage from agricultural to 2no. dwellinghouses and associated operation development. For its prior approval to: - Transport and Highways impacts of the development. - Noise impacts of the development. - Contamination risks on the site. - Flooding risks on the site. - Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change from agricultural use to C3 (dwellinghouses). - Design and external appearance impacts on the building. - Provision of adequate natural light in all habitable rooms of the dwellinghouses.		
<b>SITE LOCATION</b> 5Acres, Holywell Lane, Upchurch, Kent, ME9 7HN		
<b>RECOMMENDATION</b> Delegate to the Head of Planning to refuse prior approval		
<b>APPLICATION TYPE</b> Prior Approval		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Called in by Cllr Christine Palmer		
<b>Case Officer</b> Megan Harris		
<b>WARD</b> Hartlip, Newington and Upchurch	<b>PARISH/TOWN COUNCIL</b> Upchurch	<b>APPLICANT</b> Mr Trevor Kenney <b>AGENT</b> Stephen Hinsley Planning Ltd
<b>DATE REGISTERED</b> 29/08/24	<b>TARGET DATE</b> 24/10/24	
<b>BACKGROUND PAPERS AND INFORMATION:</b>  Documents referenced in report are as follows: -  All drawings submitted Arboricultural Statement and Tree Survey dated September 2023 Preliminary Ecological Appraisal dated 16/08/2023 Structural Feasibility Report dated May 2023 Statutory Declarations from Joanne Kenney, Trevor Kenney and Richard Stevens Statements of Truth from Amanda Scarborough, Daniel Wakeman, Lisa Grey, Mr and Mrs Peters and Robert Friend 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=SIXLZDTY18W00>

## 1. SITE LOCATION AND DESCRIPTION

- 1.1 5Acres is a campsite located to the west of Holywell Lane, in the countryside to the south of Upchurch. The site was previously an orchard, but roughly half of the land was cleared and fencing erected dividing the site into four areas between 1999 and 2003. The campsite is located in orderly rows in the western side of the site, with remaining orchard to the east of the site and within the narrow strip of land to the north which is also owned by the applicant.
- 1.2 The building which is the subject of this application is located in the western corner of the site. There is no planning permission for the building but it has been in situ since at least 1999 (when it is first visible on an aerial map of the site – see image below) and as such pre-dates the campsite. The building is single storey and is clad with corrugated metal sheeting, with a metal roof. The statements of truth provided as part of the application sets out the building was in agricultural use, used for storage of the orchard crop and also tools and machinery used to tend to the remaining orchard.



**Figure 1: 1999 aerial image of site**

## 2. PLANNING HISTORY

- 2.1 **24/502211/PNQCLA** – Prior Approval refused on 25.07.2024 for ‘Prior notification for change of use of a building and land within its curtilage from agricultural to 2(no) dwellinghouses and associated operational development. For its prior approval to: - Transport and Highways impacts of the development. - Noise impacts of the

development. - Contamination risks on the site. - Flooding risks on the site. - Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change from agricultural use to C3 (dwellinghouses). - Design and external appearance impacts on the building. - Provision of adequate natural light in all habitable rooms of the dwellinghouses.'

- 2.2 **23/503799/PNQCLA** – Application withdrawn for 'Prior notification for the change of use of existing agricultural unit into a 2no. dwellings and associated operation development. For its prior approval to: - Transport and Highways impacts of the development. - Noise impacts of the development. - Contamination risks on the site. - Flooding risks on the site. - Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change from agricultural use to C3 (dwellinghouses) - Design and external appearance impacts on the building. - Provision of adequate natural light in all habitable rooms of the dwellinghouses.'
- 2.3 **23/505399/PNQCLA**– Application withdrawn for 'Prior notification for the change of use of existing agricultural unit into a 2no. dwellings and associated operation development. For its prior approval to: - Transport and Highways impacts of the development. - Noise impacts of the development. - Contamination risks on the site. - Flooding risks on the site. - Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change from agricultural use to C3 (dwellinghouses) - Design and external appearance impacts on the building. - Provision of adequate natural light in all habitable rooms of the dwellinghouses.'
- 2.4 **SW/95/0096** – Planning permission refused on 24.03.1995 for 'Erection of steel framed agricultural building for storage of apples, implements, tractors etc'

### 3. PROPOSED DEVELOPMENT

- 3.1 This application is seeking Prior Approval for the conversion of an existing building to two dwellings under Class Q of Part 3 of the GPDO 2015 (as amended). Class Q permits:

"Development consisting of –

- (a) *a change of use of—*
- (i) *a building that is part of an established agricultural unit and any land within that building's curtilage, or*
  - (ii) *a former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage,*  
*to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order,*
- (b) *development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a), or*
- (c) *development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule or to extend that building."*

- 3.2 Class Q of the GPDO means that the principle of new homes being created from agricultural buildings in rural locations (except in locations including conservation areas

and AONBs) is approved in principle; even when Local Plan policies might otherwise restrict such conversions. The GPDO requires that all such conversions are subject to a Prior Approval process, and the current application is for Prior Approval in relation to the following required matters:

- (a) Transport and highways impacts of the development,
- (b) Noise impacts of the development
- (c) Contamination risks on site
- (d) Flooding risks on site
- (e) Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order,
- (f) The design or external appearance of the building, and
- (g) The provision of adequate natural light in all habitable rooms of the dwellinghouses.

3.3 The development will provide two new dwellings which will be single storey. The dwellings will each have 2 bedrooms and will have a floorspace of 61sqm. The proposed block plan shows a small amenity area with parking spaces will be located to the east of the building. The existing access onto the site will be utilised by the development.

3.4 The application is supported by an Arboricultural Statement and Tree Survey, Preliminary Ecological Appraisal, structural survey, three Statutory Declarations relating to the use of the site and five statements of truth relating to the use of the building. The plans and documents provided with the application sets out the following works are proposed:

- Retention of the existing timber frame, purlins, walls, floor slab (where existing), roofing, and walling materials.
- Underdrawing of the existing roofs with insulation and an inner lining supported by the existing purlins.
- Localised repairs, where required.
- Insertion of self-supporting non-structural insulation panels.
- Insertion of localised matching materials, where required.
- New damp proof course throughout.
- Installation of new windows, doors, and rooflights, as indicated on the drawings.

3.5 The Statutory Declarations from the applicants and their neighbour sets out that part of the site was first used for camping purposes in the summer of 2013, following the issue of a license from the Camping and Caravanning Club on 22nd March 2013 (a copy of this letter has been provided with the application). The campsite never received planning permission and the agent contends there is no evidence the campsite has been operating continuously for a period of 10 years. As such the agent considers that the lawful use of the wider site is agricultural and the building has been part of an established agricultural unit for Class Q purposes since before 20<sup>th</sup> March 2013.

3.6 Three similar applications have been submitted at the site within the last few years. The first two applications were withdrawn by the applicant as it was not clear that the site formed part of an established agricultural unit. Since then, the GPDO has been updated to allow buildings that were previously located on agricultural units to be converted under the Class Q prior approval process.



3.7 The third application, ref. 24/502211/PNQCLA was refused in July 2024 for the following reason:

*(1) Insufficient information has been submitted to the Local Planning Authority to demonstrate that the site formed part of an established agricultural unit on 20th March 2013 as required by Schedule 2, Part 3, Paragraph Q.1 (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Furthermore, there is also insufficient information to demonstrate that the use of the building was linked to a trade or business in order to meet the definition of an agricultural building under Schedule 2, Part 3, Paragraph X. The application is therefore refused in accordance with Schedule 2, Part 3, Paragraph W. (3)(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).*

3.8 This application seeks to overcome this reason for refusal by supplying witnessed statutory declarations which provide further information regarding the previous agricultural use of the site.

4. CONSULTATION

4.1 One round of consultation with neighbours and the Parish Council has been undertaken, a site notice was also displayed at the site. The consultation period ends on the 10<sup>th</sup> October 2024, and at the time of writing the report the comments received thus far are summarised below. Members will be notified of any further comments at the committee meeting. It is being brought before the Committee prior to the consultation period ending because prior approval applications such as these receive deemed consent if they are not determined within their 8-week determination date.

4.2 Four comments from neighbours in support of the application have been received so far. Their comments are summarised below (full details of representations are available online):

Comment	Report reference
Minimal impact to the immediate area and wider parish community.	See paragraph 7.43
Applicants have always kept the site in pristine condition.	See paragraph 7.43
Permanent residential units on the site will be positive to the community along Holywell Lane from a social perspective and a security standpoint.	See paragraph 7.43

4.3 Cllr Christine Palmer, one of the Ward Members for the area, has requested that the application be determined by the Planning Committee for the following reason - *"I believe*

*it meets the requirements for development under class Q and that several, 3rd party, legally signed statements of truth should be given consideration.”*

## 5. REPRESENTATIONS

**Mid Kent Environmental Health** – Recommend the applicant be supplied with the Mid Kent Environmental Code of Practice.

## 6. RELEVANT LEGISLATION

6.1 The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

## 7. ASSESSMENT

7.1 This application is reported to the Committee because the application has been called in by a Ward Member for the reason as set out above.

7.2 The main points to consider are whether the application complies with the relevant permitted development provisions set out within Class Q, Part 3 of Schedule 2 of the GPDO, and subsequently whether it requires prior approval or not. Class Q allows for the conversion of agricultural buildings and former agricultural buildings to dwellinghouses. In order to be converted under Class Q, the building must be, or have been, part of an established agricultural unit.

7.3 The definition of an “*established agricultural unit*” can be found in paragraph X of part 3, Schedule 2 of the GPDO which sets out the following:

*“established agricultural unit” means agricultural land occupied as a unit for the purposes of agriculture –*

*(a) For the purposes of Class R, on or before 3rd July 2012 or for 10 years before the date development begins; or*

*(b) For the purposes of Class Q or S, on or before 20th March 2013 or for 10 years before the date the development begins*

7.4 The previous application (ref. 24/502211/PNQCLA) was refused in part due to insufficient information being submitted to demonstrate that the site did form part of an agricultural unit on 20<sup>th</sup> March 2013. It was not clear when the campsite use commenced on site and insufficient evidence was provided to show that the campsite was not operating on the 20<sup>th</sup> March 2013, or to demonstrate the previous agricultural use of the land. The agent was invited to submit further information as part of the previous application, but this was not forthcoming and ultimately the application was refused.

7.5 As part of this application, the statutory declarations, which are witnessed by a solicitor, set out that the campsite use did not begin until the site received formal certification from the Camping and Caravanning Club (CCC). Certification was provided from the CCC via a letter dated 22<sup>nd</sup> March 2013 and a copy of this letter has been provided with the application.

- 7.6 The two declarations from the applicant and his wife set out that the site was fenced off into four pens to graze sheep in 2003. The pens allowed the flock to be rotated and also ensured they did not graze in the orchard to the east of the pens. A signed and witnessed declaration is provided by a neighbour, Mr Richard Stevens, who sets out that he grazed his flock of sheep on the site at various times between 2003 and 2013.
- 7.7 The declarations from the applicant and his wife go on to set out that no further information relating to the previous agricultural use of the land can be provided, as the owner of the land during that time, (the applicant's father) is deceased and all records associated with the agricultural use have been destroyed.
- 7.8 When compared to the previous prior approval applications at the site, this application provides additional information in the form of statutory declarations which provide information about the previous agricultural use of the site. These declarations should be given significant weight when taking into account they have been formally witnessed by a solicitor, and the Council has no evidence that disputes the details contained within the declarations. Furthermore aerial images of the site from 2007 appear to show sheep grazing in the pens, which supports the declaration provided by Mr Stevens who sets out that he grazed sheep on the site between 2003 and 2013. On this basis, it is considered that the application site was part of an established agricultural unit on the 20<sup>th</sup> March 2013.
- 7.9 The second part of the reason for refusal on the previous application for prior approval at the site related to the use of the building itself. In order to comply with the legislation, it must either be an agricultural building, or a former agricultural building which has not been used for any non-agricultural purpose.
- 7.10 Within Part 3 and paragraph X of the Order, "agricultural building" is defined as a building (excluding a dwelling house) used for agriculture and which is so used for the purposes of a trade or business. The five statements of truth provided with the application all set out that the building has been in use to store the orchard crop and associated tools and machinery from the small areas of orchard owned by the applicant, and there is no evidence to contradict this. However, in order to meet the definition of an agricultural building as defined by the GPDO, the building must have been used for the purpose of a trade or business. There was no evidence provided in the original submission as part of the application or within the original statements that suggest that the building has been used for an agricultural trade or business, and given the limited scale of the orchard that remains at the applicants site, it is considered it is highly unlikely that the building is or was in use as part of an agricultural business.
- 7.11 The agent was contacted during the course of the application and asked if any additional information or evidence can be provided to demonstrate that the building was used as part of an agricultural business. A statement of truth (this is not a statutory declaration) was provided from the applicant that sets out that the apples that were stored in the building were sold at local markets, however there is no evidence to verify this given all business records associated with the business no longer exist. As such, the application fails to provide sufficient information to overcome the second part of the previous reason for refusal, which regards the use of the building. On this basis, the existing building does not meet the definition of an agricultural building as defined by paragraph X of the GPDO.

- 7.12 In accordance with Paragraph W.(3)(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) the Local Planning Authority is able to refuse an application where in the opinion of the authority – the developer has provided insufficient information to enable the authority to establish whether the proposed development complied with any conditions, limitations or restrictions specified in this Part as being applicable to the development in question. Whilst the statutory declarations and supporting aerial images address the first part of the reason for refusal, insufficient information or evidence has been submitted with the application to confirm that the building is or has been used for an agricultural trade or business.
- 7.13 Notwithstanding this, a full assessment of whether the development accords with the remaining provisions of Class Q is carried out below. Paragraph Q.1 sets out a list of parameters, from (a) to (p), whereby development is not permitted.

#### **Q.1(a) or (b)**

*Q1. Development is not permitted by Class Q if—*

*(a) in the case of a site that is part of an established agricultural unit, the site was not part of the established agricultural unit—*

*(i) on 24th July 2023, or*

*(ii) where the site became part of the established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q begins,*

*(b) in the case of a site that was (but is no longer) part of an established agricultural unit—*

*(i) the site was part of an established agricultural unit on 24th July 2023,*

*(ii) where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or*

*(iii) since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose*

- 7.14 Q.1(a) is relevant for sites that are part of an established agricultural unit, whilst Q.1(b) is relevant for sites which were (but are no longer) part of an established agricultural unit. In this instance, Q.1(b) is relevant as the application seeks to demonstrate that the site was (but is no longer) part of an established agricultural unit. From the evidence provided it is considered that there would be no conflict with Q.1(b)(i) and Q.1(b)(iii). Q.1(b)(ii) is not applicable to this application as the agricultural unit ceased to operate in 2013 when the campsite use began. It is important to note here that ‘established agricultural unit’ and ‘agricultural building’ are defined separately and therefore the assessment of Q.1(b) remains consistent with the reason for refusal of the application as set out above.

8.

**Q.1. (c), (d)****Q1.** *Development is not permitted by Class Q if—**(c)the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeds 150 square metres,**(d)the development under Class Q, together with any previous development under Class Q, within the original limits of an established agricultural unit (see paragraph Q.3(2) of this Part) would result in—**(i)the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 10, or**(ii)the cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 1,000 square metres,*

8.1 The application proposes two dwellinghouses which are no more than 150m<sup>2</sup> in footprint and do not exceed 1000m<sup>2</sup> in cumulative footprint. There have been no previous applications approved at the site for the conversion of buildings into residential use under the Class Q process and the total number of dwellings converted under the Class Q process will not exceed ten.

**Q.1. (e), (f)****Q1.** *Development is not permitted by Class Q if—**(e)the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained,**(f)less than 1 year before the date development begins—**(i)an agricultural tenancy over the site has been terminated, and**(ii)the termination was for the purpose of carrying out development under Class Q, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use,*

8.2 The application form confirms that the site is not subject to an agricultural tenancy, nor was it the subject to an agricultural tenancy within the past year.

**Q.1. (g)****Q1.** *Development is not permitted by Class Q if—**(g)development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit during the period which is 10 years before the date development under Class Q begins,*

8.3 No works have been carried out on the Site under Classes A or B of Part 6 within the last 10 years.

**Q.1. (h)**

**Q1.** *Development is not permitted by Class Q if—*

*(h)the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point, other than—*

*(i)extension of the building allowed by paragraph Q.1(i);*

*(ii)protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i),*

8.4 The development will not exceed the external dimensions of the existing building.

**Q.1. (i)**

**Q1.** *Development is not permitted by Class Q if—*

*(i)the development under Class Q(b) would result in an extension that—*

*(i)has more than one storey,*

*(ii)is sited anywhere other than to the rear of the existing building,*

*(iii)extends beyond the rear wall of the existing building by more than 4 metres,*

*(iv)has eaves the height of which exceed the height of the eaves of the existing building,*

*(v)is higher than whichever is the lower of—*

*(aa)the highest part of the roof of the existing building, or*

*(bb)a height of 4 metres above the ground,*

*(vi)extends beyond a wall that forms a side or principal elevation of the existing building,  
or*

*(vii)would be sited on land that, before the development under Class Q(b), is not covered by a hard surface that was provided on the land by virtue of any development, and—*

*(aa)the hard surface was not provided on the land on or before 24th July 2023, or*

*(bb)where the hard surface was provided on the land after 24th July 2023, the hard surface has not been situated on the land for a period of at least 10 years before the date development under Class Q(b) begins,*

8.5 The development will not involve an extension and as such this paragraph is not relevant.

**Q.1 (j)**

**Q1.** *Development is not permitted by Class Q if—*

*(j)the development under Class Q(c) would consist of building operations other than—*

*(i)the installation or replacement of—*

*(aa)windows, doors, roofs, or exterior walls, or*

*(bb)water, drainage, electricity, gas or other services,*

*to the extent reasonably necessary for the building to function as a dwellinghouse, and*

*(ii)partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(j)(i),*

- 8.6 The building operations set out in the proposal section above amount to conversion works, with the existing cladding and roofing on the building remaining. As such, the proposed works are reasonably necessary for the conversion of the building.

**Q.1 (k)**

**Q1.** *Development is not permitted by Class Q if—*

*(k)the site is on article 2(3) land,*

- 8.7 The site is not located on article 2(3) land.

**Q.1 (l)**

**Q1.** *Development is not permitted by Class Q if—*

*(l)the site is, or forms part of—*

*(i)a site of special scientific interest;*

*(ii)a safety hazard area;*

*(iii)a military explosives storage area,*

- 8.8 The site is not, and does not, form part of a site of special scientific interest, nor a safety hazard or military explosives storage area.

**Q.1 (m)**

**Q1.** *Development is not permitted by Class Q if—*

*(m)the site is, or contains, a scheduled monument,*

- 8.9 The site is not, and does not, contain a scheduled monument.

**Q.1 (n)**

**Q1.** *Development is not permitted by Class Q if—*

*(n)the building is a listed building,*

- 8.10 The site is not a listed building, nor is it within the curtilage of a listed building.

**Q.1 (o)**

**Q1.** *Development is not permitted by Class Q if—*

*(o) the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), would not be capable of complying with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015 as read with the notes dated 19th May 2016 which apply to it,*

8.11 The floorspace of the dwellings comply with the National Space Standards.

**Q.1 (p)**

*Q1. Development is not permitted by Class Q if—*

*(p) the building does not have suitable existing access to a public highway.*

8.12 The building has a suitable existing access onto the public highway, Holywell Lane.

**Q.2 – Conditions**

8.13 Q.2 sets out the conditions of the permitted development under Class Q. Paragraphs (1), (2) and (3) set out the matters the local planning authority would need to determine as to whether the prior approval of the authority will be required. If the Committee were minded to determine that the proposed development is permitted by Class Q, the Committee would then need to determine if it agrees with the officer's assessment set out below as to whether prior approval would then be required.

8.14 Condition (4) requires that the development be completed within a period of 3 years starting with the prior approval date.

Transport and Highways Impacts of the Development

8.15 The creation of two new dwellings is unlikely to give rise to significant numbers of additional vehicle movements to cause harm to the wider highway network sufficient to require the Council's prior approval.

8.16 Sufficient access, parking and turning is available within the site and it is not considered that this would require prior approval. On the basis of the above, prior approval would not be required in respect of highways and transport impacts.

Noise Impacts of the Development

8.17 Residential use of the building would not give rise to such substantial noise or disturbance so as to require the Council's prior approval. A certain degree of noise is to be expected during conversion works, but this would be short-lived and is a factor of development in general. On the basis of the above, prior approval would not be required in respect of noise impacts.

Contamination Risks on the Site

8.18 The Council's Environmental Health team have been consulted regarding the risk of contamination on the site who confirm that they have no concerns from a contamination perspective. On the basis of the above, prior approval would not be required in respect of contamination risks.



### Flooding Risks on the Site

- 8.19 The site is within Flood Zone 1 which has a low risk of flooding, and the Council's prior approval would therefore not be required in this regard.

### Location or Siting

- 8.20 Consideration would be required as to whether the location or siting of a building makes it impractical or undesirable for the building to change from agricultural use to a residential use. Case law demonstrates that the surrounding land uses and the impact this will have upon the amenity of future occupiers of the development can be taken into account here. An example of this is a dismissed appeal at Wimborne (East Dorset District Council) in November 2018 [PINS ref. 3205818] which proposed the conversion of part of an agricultural building to a dwelling. In this case, the Inspector concluded that the use of the remaining part of the agricultural building could cause noise and disturbance to occupiers of the new dwelling. The dwelling would also be in close proximity to an adjoining hay barn and the farm track and the Inspector noted that it is reasonable to consider that the passage of agricultural vehicles along the track, on a potentially regular basis at certain times of the year, would further compound the issue of noise and disturbance. The location of the development was therefore undesirable due to the harmful impacts to the amenity of future occupiers and the appeal was dismissed on this basis.
- 8.21 The proposed new dwellings would be located within a campsite. Whilst this would be an unusual location for new dwellings and there would be a degree of noise and disturbance to future occupiers from the use of the campsite, this is not considered to be significantly harmful to the amenity of future occupiers. As such, it would not require prior approval for this matter.

### Design or External Appearance of the Building

- 8.22 The appearance of the building will change through the insertion of new windows and doors. However, it is considered that this would not be harmful to the character or appearance of the site or wider countryside, given the general appearance of the building would remain the same through the retention of the existing cladding and roofing materials. As such, it would not require prior approval for this matter.

### Provision of Adequate Natural Light in all Habitable Rooms

- 8.23 The habitable rooms within the proposed dwellings are all served by sufficiently sized clear glazed windows which would provide adequate natural light to the rooms. As such, it would not require prior approval for this matter.

### **HRA Impacts**

- 8.24 Article 3 of the GPDO sets out that subject to the provisions of this order and the Conservation of Habitats and Species Regulations 2017 (HRA), that planning permission is granted for development in Schedule 2 of the Order.
- 8.25 Regulations 75-78 of the HRA set out that any development likely to have a significant effect on a European site must not be begun until the developer has received written

notification of the approval of the LPA under Regulation 77. S77 sets out the application process required. In accordance with the adopted Bird Wise North Kent Mitigation Strategy, a tariff payment for each new unit of residential accommodation will be required as part of the above process to mitigate the effects of increased recreational disturbance arising from new residential development. The current tariff is £328.27 per dwelling.

- 8.26 If the development was acceptable, an informative could be imposed to advise the applicant that such an application is required in light of the proximity of the development within the Thames, Swale and Medway Estuary Special Protection Areas.

### **Curtilage**

- 8.27 Paragraph Q.3. (1) of the GDPO 2024 defines curtilage as:

*“(a) the piece of land, whether enclosed or unenclosed, immediately beside or around the building on an established agricultural unit or former agricultural building (as the case may be), closely associated with and serving the purposes of that building, and*

*(b) an area of land immediately beside or around the building on an established agricultural unit or former agricultural building (as the case may be) no larger than the land area occupied by that building.”*

- 8.28 The land highlighted in red on the site location plan is no larger than the area of land occupied by the agricultural building and as such the scale of the curtilage accords with the provisions of paragraph Q.3. (1).

### **Other Matters**

- 8.29 The letters of support received from neighbours at the time of writing this report have been duly considered. However, there are only a limited amount of considerations that can be taken into account as part of prior approval applications, which are dictated by the Class Q legalisation in this case. The points raised in support of the development are not considered to be relevant to the proposal's compliance with Class Q or the prior approval matters set out in Q2. As such, there is no further comment to make in this regard.

### **Conclusion**

- 8.30 The statutory declarations provided as part of the application set out that the site formed part of an established agricultural unit on 20<sup>th</sup> March 2013 as required by paragraph Q.1 (a) and (b) and without evidence to the contrary, these statements are given significant weight. The details contained within the statements are supported by aerial images of the site, and as such, this aspect of the previous refusal is resolved. However, the application still fails to demonstrate that the use of the building was/is linked to a trade or business, and as such the use of the building does not meet the paragraph X definition of an agricultural building. The agent has been approached and offered the opportunity to provide additional evidence, however sufficient additional evidence was not provided. Therefore, it is recommended that the application should be refused in line with Paragraph W. (3)(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the following reason:

- (1) Insufficient information has been submitted to demonstrate that the use of the building was linked to a trade or business in order to meet the definition of an agricultural building under Schedule 2, Part 3, Paragraph X. The application is therefore refused in accordance with Schedule 2, Part 3, Paragraph W. (3)(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

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

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

The application will be considered by the Planning Committee where the applicant/agent will have the opportunity to speak to the Committee and promote the application.

