

Agenda

Extraordinary Planning Committee Meeting

Date: Tuesday, 6 August 2024

Time 7.00 pm

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

Membership:

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

Quorum = 6

Pages

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2. Apologies for Absence

3. Declarations of Interest

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

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

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

Part B reports for the Planning Committee to decide

5 - 8

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Monday 5 August 2024.

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| 4. | 2.1 - 23/505420/REM Land at Wises Lane, Borden | 9 - 34 |
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Issued on Monday, 29 July 2024

The reports included in Part I of this agenda can be made available in alternative formats. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact democraticservices@swale.gov.uk. To find out more about the work of this meeting, please visit www.swale.gov.uk

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

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

6 AUGUST 2024

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

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

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 6 AUGUST 2024

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

PART 2

2.1	23/505420/REM	BORDEN	Land at Wises Lane
2.2	24/500856/REM	BORDEN	Land at Wises Lane
2.3	23/502210/FULL	SITTINGBOURNE	Land On Either Side Of Vigo Lane & Wrens Road
2.4	24/501424/FULL	SHEERNESS	Flat 3 231-235 High Street
2.5	24/501489/ADV	MINSTER	Parcel G Harps Farm Thistle Hill Way
2.6	24/500823/FULL	LEYSDOWN	Jimmy G's Amusements The Promenade
2.7	23/504718/FULL	BOUGHTON UNDER BLEAN	The Vicarage 101 The Street

PART 3

3.1	23/505783/FULL	EASTCHURCH	Dickens Inn Fourth Avenue
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PLANNING COMMITTEE – 6 AUGUST 2024

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 23/505420/REM		
PROPOSAL Approval of Reserved Matters (Appearance, Landscaping, Layout and Scale sought) for creation of the eastern spine road (Phase 2D), pursuant to 17/505711/HYBRID		
SITE LOCATION Land At Wises Lane Borden Kent ME10 1GD		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate conditions with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions.		
APPLICATION TYPE Reserved Matters		
REASON FOR REFERRAL TO COMMITTEE The number of representations received contrary to the recommendation. Borden Parish Council object to the proposal. The main concerns of the Parish Council are: <ul style="list-style-type: none"> • Impact on nearby badger setts. • Drainage – particularly the impact of the deep bore soakaway • Construction areas left unopened risk trespass and anti-social behaviour. 		
Case Officer Carly Stoddart		
WARD Borden and Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Karen Dunn AGENT DHA Planning
DATE REGISTERED 30.11.2023		TARGET DATE 13.08.2024
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted. All representations received. Arboricultural Method Statement inc. Tree Protection Plan, dated November 2023 (uploaded 28 November 2023) Eastern Link Road Construction Zone – 17-051-146, dated February 2024 (uploaded 23 February 2024)		

(Dormouse and Reptile Mitigation – Eastern Spine Road – 3825/TN17B Rev A/DM), dated April 2024 (uploaded 08/04/2024)

Soft Landscape 1 of 2 - WIS-BBA-ZZ-ZZ-DR-L-8005 P02, dated 11 February 2024 (uploaded 23 February 2024)

Soft Landscape 2 of 2 - WIS-BBA-ZZ-ZZ-DR-L-8006 P02, dated 11 February 2024 (uploaded 23 February 2024)

Response to Consultee Comments, dated 23 February 2024 (uploaded 23 February 2024)

Other applications

Appeal Decision for 17/505711/HYBRID, dated 29 April 2021 (uploaded 29 April 2021)

[17_505711_HYBRID--5237532.pdf \(midkent.gov.uk\)](https://www.midkent.gov.uk/17_505711_HYBRID--5237532.pdf)

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

[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. | Land At Wises Lane Borden Kent ME10 1GD \(midkent.gov.uk\)](https://www.midkent.gov.uk/23/505420/REM%20Approval%20of%20Reserved%20Matters%20(Appearance,%20Landscaping,%20Layout%20and%20Scale%20sought)%20for%20creation%20of%20the%20eastern%20spine%20road%20(Phase%202D),%20pursuant%20to%2017/505711/HYBRID.%20Land%20At%20Wises%20Lane%20Borden%20Kent%20ME10%201GD)

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site is generally linear in shape and extends from Wises Lane across fields and Cryalls Lane towards Borden Lane. The site forms Phase 2D 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 located close to the Borden Nature Reserve which is to the south of Cryalls Lane. The Nature Reserve is within close proximity to the application site where the proposed road would cross Cryalls Lane heading into the vegetated area towards Borden Lane.
- 1.3. Borden – Harmans Corner Conservation Area and Borden – The Street Conservation Area are located to the south-west of the proposed road. There are listed buildings within the vicinity of the proposed road, located at Wises Lane, Cryalls Lane and Borden Lane. Two public rights of way (PRoWs) cross the application site ZR120 (from Cryalls Lane to the Wises Lane) and ZU43 (from Auckland Drive across the nature reserve linking to a network of other PRoWs connecting to Borden Lane and The Street).

2. 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:** 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 (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. **22/500133/SUB:** Updated Baseline Ecological Report: Surveys for Breeding Birds, Bats, Reptiles and Dormouse (condition 58)

Granted 06.04.2022

- 2.5. **21/506820/SUB:** Revised Skylark Mitigation Strategy (condition 60)

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

- 2.6. **22/500640/SUB:** Phasing Plan (condition 2)

Granted 06.05.2022

- 2.7. **22/500639/SUB:** Construction Ecological Management Plan (CEMP) (condition 61)

Granted 06.05.2022

- 2.8. **22/500132/SUB:** Contaminated Land Assessment (condition 53)
Granted 23.05.2022
- 2.9. **22/502221/SUB:** Air Quality (condition 70)
Granted 06.02.2023
- 2.10. **22/501227/SUB:** Roads, Footways, Footpaths, Verges and Other Matters (condition 37)
Granted 06.02.2023

Reserved Matters

- 2.11. **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 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
- 2.12. **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

- 2.13. **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

- 2.14. **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.

Currently under consideration

Conditions Applications Associated with this Phase (2D)

- 2.15. **24/501115/SUB:** Archaeological Written Scheme of Investigation and Evaluation (condition 66)

Granted 14.03.2024

- 2.16. **24/501002/SUB:** Updated Badger Survey (condition 59)

Granted 19.07.2024

3. PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the approval of reserved matters in relation to scale, appearance, landscaping and layout of the eastern link road to the approved application 17/505711/HYBRID.

- 3.2. The proposal comprises Phase 2D of the hybrid permission. Phase 2D will connect the link road to the central part of the link road and a roundabout to be located within Borden Lane.

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. 160 letters of representation were received in relation to the consultation. Concerns/ comments were raised in relation to the following matters: -

Comment	Report reference
Road to nowhere	7.10.6

Increased traffic - Major disruption to surrounding roads which are already at capacity	7.10.4
Impact on ability for emergency vehicles to move through traffic	7.10.4
Spine road should be completed in its entirety (connected to Borden Lane & Chestnut Street)	7.10.15
Single track (Cryalls Lane) unsuitable for increase in traffic	7.10.7 - 7.10.8, 7.10.14
Highway safety hazard including to vehicles, pedestrians, cyclists, horse-riders	7.7.3, 7.10.9 - 7.10.11
Damaging to country lanes	7.15.4
Dead end will increase antisocial behaviour, fly-tipping and other criminal activity	7.15.1 – 7.15.3
Road will be a rat-run	7.10.5, 7.10.20
Encourage speeding	7.7.3, 7.10.19
No crossing points	7.7.3
No traffic calming measures	7.7.3
Deep borehole soakaway is a concern	7.12.2 – 7.12.5
Loss of trees, habitat and wildlife with inadequate mitigation	7.8.6 - 7.8.7, 7.9.5, 7.9.7 - 7.9.15
Should be committee decision	The application is being reported to Committee
Increase air pollution	7.11.5 – 7.11.9
Impact on mental and emotional health	7.14.3 – 7.14.4, 7.15.5
Increase in noise	7.14.3 – 7.14.4
Increase in light pollution	7.9.13 - 7.9.15
Impact from construction - should be included in the construction management plan	7.14.3 – 7.14.4
Drainage proposals are not clear	7.12.2 – 7.12.5
Impact on residents amenity from construction	7.14.3 – 7.14.4
Question accuracy of submitted reports	The submitted reports have been reviewed by the relevant technical specialists and have been deemed sufficient to determine the application.
Why the need for a dead end	7.10.7, 7.10.14
Impact on PROWs	7.7.3

4.3. **Councillor Cavanagh** has written objecting to the application on the following grounds:

Comment	Report reference/ clarification
Impact on Cryalls Lane – the road should be fenced off until it's linked with Borden Lane	7.10.15
The dead end into the green space should be fenced off to prevent to vehicles accessing it and to prevent antisocial behaviour and flytipping.	7.10.15
There needs to be a continuation of traffic calming measures and crossing points right up to Borden Lane	7.7.3, 7.10.9

Calling the application to committee on the basis of these objections	The application is being reported to Committee
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4.4. **Borden Parish Council** object to the application on the following grounds:

Comment	Report reference/ clarification
Insufficient speed reduction measures proposed at the Borden Lane end - Speed reduction measures should be applied along the entire length of the new road in the interest of public safety.	7.7.3
The location of crossing for pedestrians and to access the cycle paths should be at more strategic locations to maximise safety and encourage active travel.	7.7.3
Adversely impact a long-standing and established large Badger set and associated foraging grounds. No detailed plans have been submitted to mitigate the impact on this and other protected species within this area.	7.9.5, 7.9.7 - 7.9.15
The short spur remaining on Cryalls Lane will be highly susceptible to antisocial behaviour and flytipping.	7.15.1 – 7.15.3
Partial completion of this road is likely to create additional traffic via Cryalls Lane to the New Zealand estate which is a residential area and not designed for high volume traffic. Its use as such will present a safety risk to residents and walkers.	7.10.15

4.5. **Borden Wildlife Group** object to the application on the following grounds:

Comment	Report reference/ clarification
Insufficient detail	The submitted reports have been reviewed by the relevant technical specialists and have been deemed sufficient to determine the application.
Impact on protected habitats and species due to location of deep bore soakaway and 'parkland', 'greenspace'.	7.9.5, 7.9.7 - 7.9.15
Lack of mitigation	7.9.5, 7.9.7 - 7.9.15
Unacceptable for any tree loss	7.8.6-7.8.7

4.6. 13 letters of representation were received in relation to the second consultation. The following additional concerns/ comments were raised in relation to the following matters:

Comment	Report reference
Plans not clearly labelled	Drawings are titled and include the drawing number and revision.
S278 Agreement should be in place before the application proceeds	7.10.15
Consultation letters should provide more clarity	The consultation letters are standard letters. Public Access provides detail as to which

	plans are amended, additional and superseded.
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4.7. **Councillor Cavanagh** has written to advise her original concerns have been addressed and is not calling the application to Committee.

4.8. **Borden Parish Council** object the application on the following additional grounds:

Comment	Report reference
The lack of clarity on the drainage, particularly about the deep bore soak away.	7.12.2 – 7.12.5
Concerns over any part of the development that remains accessible with an unopened end, as this may encourage traveller encampments and anti-social behaviour. They should be blocked off until they are opened up for construction.	7.15.1 – 7.15.3
There is also concern that the impact on the badger setts has not been addressed.	7.9.5, 7.9.7 - 7.9.15

4.9. **Borden Wildlife Group** object the application on the following additional grounds:

Comment	Report reference
Question accuracy of the submitted ecology report.	The submitted reports have been reviewed by the relevant technical specialists and have been deemed sufficient to determine the application.
Drainage is stated as not being part of the application but some reference is made within the submission.	7.12.2 – 7.12.5

4.10. **Borden Parish Council** and **Borden Wildlife Group** were consulted for a third time.

4.11. **Borden Parish Council** maintain their objection on ecological grounds.

4.12. No further response was received from Borden Wildlife Group

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. **KCC Highways:** - In general, the road layout of the development is satisfactory.

Initially it was unclear whether an area that appeared to be set out for turning onto Cryalls Lane was temporary or not. Clarity was sought on this point.

Further details were requested around the phasing of the remainder of the spine road and around the positioning of street lighting.

A question was raised around whether the future housing would have a direct frontage on the road.

Additional information and amended drawings were provided which resolved concerns and answered the questions above. KCC Highways note that the detailed design for phases 3 and 4 is not known but that it is anticipated that there will be direct access for some properties from the link road which will be covered by the separate reserved matters applications for the future housing phases and lay-by parking will be further considered at the time of detailed design. Waiting restrictions will also be considered to ensure the road is clear of parked cars.

- 5.3. **KCC PROW:** - Public Footpaths ZR120 and ZU43 are directly affected by this application. Initially, objection was raised on the basis of discrepancies with the plans and safety concerns for the crossing point on route ZU43 and the use of Cryalls Lanes with regard to the safety of cyclists and pedestrians.

Both routes now show a crossing point with central refuge, dropped kerb and tactile paving. As with the requirements for the Spine Road West, details of full signage and detailed specification of the crossings will be required. This can be conditioned.

Other comments remind the applicant of the process of temporary diversions and closures.

- 5.4. **KCC Ecology:** - Additional information was requested in the form of a plan showing the construction footprint to understand how this may affect badgers on site and a plan showing where the habitat creation/enhancement works will be carried out for dormouse and reptiles.

The construction footprint plan was submitted which showed that the construction activity would not affect badgers so as to require a licence for the works. KCC Ecology advised that no works commence until a badger survey has been carried out to ensure that mitigation agreed is still valid.

A plan submitted detailed that no additional habitat creation will be implemented as part of this phase but additional habitat creation will be implemented across the whole site which will be sufficient to compensate for loss. Additional information has been provided regarding enhancement features for reptiles.

KCC Ecology raise no objection.

- 5.5. **KCC Flood and Water Management:** - Three rounds of consultation have been carried out.

Initial questions raised how the spine road differs the masterplan and how adjusted runoff volumes have been taken into account in the hydraulic calculations for the proposed basins and deep bore soakaways. Detailed information was requested.

Revised drainage plans were submitted as well as a 'Response to Consultee Comments' in which the applicant advised that this level of detail is secured by condition 49 of the hybrid planning permission and as for other earlier phases of the development, will be submitted as part of an application to discharge this condition for this phase. On this basis KCC Flood and Water Management have no further comment.

- 5.6. **KCC Archaeology:** - KCC Archaeology have confirmed that the evaluation trial trenching through the route of the Eastern Link Road (Phase 2D) has been undertaken following the approved written scheme of investigation (24/501115/SUB). The evaluation shows no

archaeological remains within the route of the Eastern Link Road and KCC Archaeology are satisfied that the development as proposed for this reserved matters application can proceed without further archaeological measures.

- 5.7. **KCC Minerals and Waste:** - No land-won minerals or waste management capacity safeguarding objections.
- 5.8. **SBC Heritage:** -No objection.
- 5.9. **SBC Tree Officer:** - The general landscape arrangements and species mix as shown on the soft landscape drawings 1 & 2 by Bond Bryan are considered acceptable subject to them being conditioned.
- The submitted arboricultural method statement dated November 2023 by Aspect Arboriculture appears to provide suitable tree protection in accordance with BS5837:2012 subject to compliance via a suitable condition.
- 5.10. **Mid Kent Environmental Health:** - No further comment or recommendations to make to those contained in our response during the consultation for the outline approval.
- 5.11. **Environment Agency (the EA):** - 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.
- 5.12. **National Highways:** -Satisfied that, if permitted, it would not have an unacceptable impact on the safety, reliability, and/or operational efficiency of the Strategic Road Network. Our formal response is No Objection.
- 5.13. **Natural England:** - No comment.
- 5.14. **Historic England (HE):** - HE provides advice when our engagement can add most value. In this case we are not offering advice.
- 5.15. **Network Rail:** - No objections.
- 5.16. **Sport England:** - Sport England has no comments to make.
- 5.17. **Southern Water:** -No objections to the reserved matters application
- 5.18. **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.
- 5.19. **Kent Fire & Rescue:** - The swept paths show suitable access for the fire and rescue service.
- 5.20. **Kent Police:** - Applicants/agents should consult us as Designing out Crime Officers (DOCO's) to address CPTED and incorporate Secured By Design (SBD) as appropriate. If approved, site security is required for the construction phase.

6. DEVELOPMENT PLAN POLICIES

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

ST1 Sustainable Development

ST5 Sittingbourne Area Strategy

MU3 Land at South-West Sittingbourne

CP4 Requiring Good Design

CP7 Conserving and Enhancing the Natural Environment: Providing for Green Infrastructure

CP8 Conserving and Enhancing the Historic Environment

DM6 Transport Demand and Impact

DM7 Vehicle Parking

DM14 General Development Criteria

DM19 Sustainable Design and Construction

DM21 Water, Flooding and Drainage

DM24 Conserving and Enhancing Valued Landscapes

DM28 Biodiversity and Geological Conservation

DM29 Woodlands, Trees and Hedges

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 because Borden Parish Council has objected to the proposal. Considering these comments, the committee is recommended to carefully consider the following points: -

- Impact on nearby badger setts.
- Drainage – particularly the impact of the deep bore soakaway
- Construction areas left unopened risk trespass and anti-social behaviour.

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

- The Principle of Development
- Landscape and Visual
- Heritage
- Archaeology

- Design of the proposed development
- Landscaping
- Ecology
- Transport and Highways
- Public Rights of Way
- Air Quality
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions

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 spine road (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 showed the road to come forward in three separate phases. This application is for Phase 2D and forms the final reserved matters application related to the spine road.
- 7.3.4. There is no objection to the principle of development.

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 proposal accords with the hybrid masterplan approved at outline stage where the impact of the proposal upon the wider landscape was carefully considered by the Planning Inspector to be acceptable. Given the location of the eastern spine road is in accordance with the approved masterplan and parameter plans the impact upon the landscape is considered to be acceptable and therefore the proposal accords with Policy DM24 of the Local Plan and the NPPF.

7.5. Heritage

- 7.5.1. 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.

- 7.5.2. 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.
- 7.5.3. 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.
- 7.5.4. 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.
- 7.5.5. Most relevant to this application, the closest listed buildings are Riddles Cottage and Riddles House which was a Grade II listed building now divided into two houses located on eastern side of Borden Lane and Cryalls Farmhouse, Grade II listed, accessed from Auckland Drive.
- 7.5.6. In relation to the wider development proposals for the whole site, the SoS agreed with the Inspector that there would be a material change to the character of the setting of Riddles Farmhouse (now Riddle Cottage and Riddles House), amounting to less than substantial harm, but at the lowest end of that category. In reading the Inspectors report, this is primarily due to the proposed new roundabout in Borden Lane and its proximity to the listed building.
- 7.5.7. In relation to Cryalls Farmhouse, its architectural significance was recognised, and the setting was taken to be its own substantial plot within its curtilage. The appeal decision concluded that there would be no effect from the proposed development on the setting of Cryalls Farmhouse.
- 7.5.8. In considering the appeal and in line with para. 207 (196 at the time of the appeal) of the NPPF, the 'less than substantial harm' to Riddles Cottage and Riddles House (as well as the Chestnut Street Conservation area) was considered against the public benefits of the wider proposal. At paragraph 52 of his letter, the SoS agrees with the Inspector's conclusion that the benefits of the appeal scheme are collectively sufficient to outbalance the identified 'less than substantial' harm to the significance of heritage assets.
- 7.5.9. Further to this, the red line boundary of the proposed road subject of this application does not actually adjoin Borden Lane. Instead, the application red line boundary goes as far as necessary to adjoin the arm that will link the new roundabout to be located on Borden Lane to this eastern link of the spine road. The new roundabout was approved as part of the hybrid application and is to be located to the north of the listed Riddles Cottage and Riddles House.
- 7.5.10. Due to the siting of the proposed eastern spine road in relation to the listed Riddles Cottage and Riddles House, it is not considered to result in harm to the setting. The Council's Heritage Manager has considered the proposal and states no objection.

- 7.5.11. There are other listed buildings within the area, however, these are located further away and are not considered to be adversely impacted by the proposal given the separation.
- 7.5.12. In considering the impact of this proposal on designated heritage assets, the Council's obligations under S.66 and S67 of the Planning (Listed Building and Conservation Areas Act) 1990 have been taken into account. The setting of listed buildings identified nearby and the character and appearance of the conservation area would be preserved. The overall impact on heritage assets would be less than substantial at the lower end in NPPF terms. Due weight has been given to the public benefits of this element of the overall development which would improve accessibility to new housing, and this would outweigh the limited harm identified.
- 7.5.13. It is considered that the proposal is in accordance with Policy DM32 and DM33 of the Local Plan and the NPPF.

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. Condition 66 of the hybrid planning permission required a programme of archaeological field evaluation works to be secured for that phase in accordance with a specification and written timetable. The written specification and timetable was approved for this phase on 14/03/2024 under reference 24/501115/SUB.
- 7.6.4. KCC Archaeology have confirmed that the evaluation trial trenching through the route of the Eastern Link Road (Phase 2D) has been undertaken following the approved written scheme of investigation (24/501115/SUB). The evaluation shows no archaeological remains within the route of the Eastern Link Road and KCC Archaeology are satisfied that the development as proposed for this reserved matters application can proceed without further archaeological measures.
- 7.6.5. In view of the above, it is considered that the proposal is in accordance with Policy DM34 of the Local Plan and the NPPF.

7.7. Design of the proposed development

- 7.7.1. The NPPF attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 7.7.2. The primary consideration for the link road design, layout and appearance is whether it meets KCC Highway requirements. The proposal has been designed in accordance with the approved parameter plans and advice in pre-application meetings with KCC Highways.

7.7.3. In line with the other two sections of the spine road, the eastern link road accords with the road classification requirement of a Local Distributor Road (LDR), designed to 30mph, with a carriageway width of 6.75m. Whilst meeting the design for a LDR, the responsibility for the imposition and enforcement of speed restrictions is covered by other legislation. The road design incorporates traffic calming measures at appropriate intervals as well as uncontrolled crossing points on key desire lines to provide access to future houses proposed along the road within Phases 3 and 4 of the overall development and to provide a central refuge for both PROW routes affected by the proposal (ZR118 and ZR119). A condition is proposed for details of signage and specification of the crossings. The connecting section to the west within Phase 1A was given full approval within the hybrid permission with details under condition 37 for roads, footways, footpaths, verges and other matters approved on 06/02/2023 (ref: 22/501227/SUB).

7.7.4. Overall, the proposed road design, layout and appearance is considered to be in accordance with Policies CP4 and DM14 of the Local Plan and the NPPF.

7.8. Landscaping

7.8.1. 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.

7.8.2. 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.

7.8.3. Concern has been raised through the consultation responses from the public with regard to the loss of trees and mature woodland and the need for green mitigation.

7.8.4. Condition 44 of the hybrid planning permission requires details of how trees that are to be retained will be safeguarded throughout the development. As such, an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) have been submitted. As one of the reserved matters seeking approval as part of this application, the proposals also include details of landscaping which is shown to be provided either side of the eastern spine road.

7.8.5. The landscaping proposed continues in a similar manner to that approved for the middle section of the road to which this section will connect. The landscaping comprises predominantly amenity grass verges immediately adjacent to the highway with wildflower meadow grassland mix between the footpath and cycleway and the red line boundary. Trees are also shown along the route, predominantly to the southern side.

7.8.6. The Council's Tree Officer has considered the AMS and TPP relating to tree protection and soft landscaping proposals. A limited number of trees are required to be removed of which all are category c (low quality). There will be no areas of mature woodland removed as part of this proposal.

7.8.7. The AMS shows suitable tree protection to be provided in accordance with BS5837:2012 and therefore no objection to the scheme subject to implementation on site. The wording of condition 44 of the hybrid planning permission already requires implementation on site so a further condition is not necessary.

- 7.8.8. The general landscape arrangements and species mix as shown on the soft landscape drawings 1 and 2 are considered acceptable. As landscaping is a reserved matter, implementation is secured by condition 6 of the hybrid planning permission.
- 7.8.9. Condition 62 of the hybrid permission detailed in the ecology section below requires the submission and approval of a landscape and Ecological Management Plan (LEMP) within 6 months of the commencement. A duplicating landscape management plan is not considered necessary.
- 7.8.10. The proposal is considered acceptable and in accordance with Policy DM14 and DM29 of the Local Plan and the NPPF.

7.9. Ecology

- 7.9.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan.
- 7.9.2. Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions for the purpose of conserving biodiversity. Furthermore, the National Planning Policy Framework states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible'. The National Planning Policy Framework states that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.'
- 7.9.3. National planning policy aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".
- 7.9.4. 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. The issue of Biodiversity Net Gain has been dealt with at the appeal as part of the hybrid planning application. Overall BNG across the hybrid development site is 12.9%.
- 7.9.5. Pre-commencement conditions in the hybrid 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
 - Condition 62 – Landscape and Ecological Management Plan (LEMP) to be submitted within 6 months of the commencement of development of any phase.
- 7.9.6. As referred above, if the application is approved, further details relating to Conditions 62 require submission of a LEMP for approval within 6 months of commencement of works on Phase 2D.
- 7.9.7. KCC Ecology have reviewed the application. Further information was requested in the form of a plan to show the construction footprint of the development. This was requested to ensure the construction activity did not come within too close proximity of an active badger sett. A request was also made asking for details of proposed habitat creation/enhancement for dormouse and reptiles.
- 7.9.8. A plan (Eastern Link Road Construction Zone – 17-051-146) was submitted showing the construction footprint of the development. Given that the sett is over 20m away from the boundary line shown for construction activity, KCC Ecology are satisfied, the sett would not be adversely impacted.
- 7.9.9. In relation to the habitat creation/enhancement, the applicants directed KCC Ecology to the LEMP. However, KCC Ecology stated that as this is only required to be submitted 6 months from the commencement of development within a phase, it wasn't sufficient to confirm that mitigation will be provided and when.
- 7.9.10. A plan (Dormouse and Reptile Mitigation – Eastern Spine Road – 3825/TN17B Rev A/DM) has therefore been submitted which details that no habitat creation will be implemented as part of this phase, but additional habitat creation will be carried out across the whole site which will be sufficient to compensate for the loss. Additional information has also been provided on the enhancement features to support reptiles.
- 7.9.11. The response with regard to habitat creation and the enhancement features in relation to reptiles is accepted and agreed.
- 7.9.12. KCC Ecology also consider that the submitted landscaping plan confirms that native species planting will be included within this phase which will benefit biodiversity.
- 7.9.13. KCC Ecology have also commented that when the details of the proposed lighting is submitted it must demonstrate that the light spill will be minimised within the adjacent habitat due to the presence of bats, dormouse and badgers.
- 7.9.14. The link road is to be adopted and maintained by KCC. Condition 37 of the hybrid planning permission requires details of lighting to be submitted for approval for each phase. Any application to satisfy the requirements of condition 37 for this phase should take account of the comments above.
- 7.9.15. 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.

7.10. Transport and Highways

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

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

- 7.10.2. The NPPF also states that:

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

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

- 7.10.4. The impact of the wider development has already been considered and accepted with the grant of the hybrid planning permission. At paragraph 18 of his letter the Secretary of State (SoS) agrees with the Inspector that subject to the implementation of mitigation measures the scheme would not have an unacceptable impact on highway safety or the free flow of traffic on the local or strategic road network.

- 7.10.5. It was also noted that the creation of a link between Borden Lane and Chestnut Street with access onto the southbound A249 has been identified to provide benefits which include mitigating congestion on the A2 and the provision of an alternative route which, the Key Street/A249 and the Key Street roundabout and the Link would contribute to improving air quality along this key route into and out of Sittingbourne. The requirement for the link road to be provided as part of the wider development was secured by conditions 24 and 26 along with the roundabout at Chestnut Street (condition 25) of the hybrid planning permission.

- 7.10.6. The eastern link road proposal would complete the east-west spine road running from Chestnut Street to the Borden Lane roundabout (approved as part of the hybrid planning permission).

- 7.10.7. The proposal for this eastern section of the spine road also includes a connection to the south with Cryalls Lane within the vicinity of the Rugby Club site. This connection is to facilitate the approved closure of Cryalls Lane further east. This means for those entering Cryalls Lane from Wises Lane and travelling towards the east, they will be directed north through this new link to join the new eastern section of the spine road. Should vehicles not use this new link and continue along Cryalls Lane, they will eventually meet a dead end in the road and not be able to join the new eastern section at this point. As such, to ensure there is adequate turning availability, a turning area is proposed at the point where the new eastern link road crosses Cryalls Lane.

- 7.10.8. The road design does however provide for exit and entry for vehicles to the eastern link road with Cryalls Lane to the northern side of the link road.

- 7.10.9. KCC Highways have been consulted and have provided responses on 2 occasions. Their initial response advised that the principle and scale of development has been approved and the western link road planning approval includes the provision of a footway on both sides of

the proposed road with the southern side being increased to 3m for a shared footway/cycleway facility to connect Phase 1A, which is located centrally within the overall development proposals. This is then to be carried through into the eastern link road and connect and onto the 3-arm roundabout to be constructed in Borden Lane to the east.

- 7.10.10. Flanked by soft landscaping, the submitted drawings show the provision of a footway to the northern side and a shared 3m wide footway/cycleway to the southern side.
- 7.10.11. KCC Highways advise that the road layout of the development is satisfactory, as the geometry accords with the national and local design standards in terms of road widths, footway provision, swept path analysis and speed restraint features.
- 7.10.12. KCC Highways sought clarity as to whether the turning area at Cryalls Lane was a temporary or permanent arrangement, further information was also required in relation to the phasing of the 3-arm roundabout to be constructed in Borden Lane and details requested regarding street lighting positions. A question was also raised as to whether there would be any houses fronting the eastern link road.
- 7.10.13. In response the applicant submitted revised and further information to address the points raised. The applicant confirmed that the proposed turning area is to be retained permanently.
- 7.10.14. The hybrid planning permission already approves Cryalls Lane becoming a no-through route. The turning area has been designed to allow for vehicles that inadvertently progress beyond the no-through route signage. The turning area has been revised to move it slightly towards the south-west to allow for greater visibility over the space to alleviate concerns related to the potential for antisocial behaviour.
- 7.10.15. To address the question around the phasing of the delivery of the road in relation to the delivery of the roundabout in Borden Lane, the applicant has submitted a Response to Consultee Comments. The applicant confirmed the eastern link road will not be open to traffic until it is connected with Borden Lane via the roundabout. In accordance with Condition 26 of the hybrid planning permission, the full link road will be open to traffic before occupation of the 421st dwelling.
- 7.10.16. Confirmation was provided by the applicant that the street lighting proposed will be submitted for approval as per the requirements of condition 37 of the hybrid planning permission.
- 7.10.17. Finally, the applicant also confirmed that at this stage the detailed designs for Phases 3 and 4 which are adjacent to the eastern link road (north and south of it) is not known but that it is anticipated that there will be some direct access for some properties in a similar manner to approved Phases 1 and 2. It is also stated that there will be secondary roads leading from the eastern link road to provide access to the wider development. These details will be identified and provided in the future reserved matters applications for the relevant phases and will include any lay-by parking proposed, similar to the approved western link road. The applicant has advised that any waiting restrictions will also be considered at the detailed stage for these phases and will form part of the technical approval process with KCC Highways at that time.
- 7.10.18. Following their review of this information KCC Highways responded stating that the information provided satisfactorily resolved concerns previously raised.

- 7.10.19. Public responses to consultation express concern with regard speeding and use of the road as a rat-run. As stated above the design of the road is designed to meet standards with regard to speed. Traffic calming measures were discussed between the applicant and KCC Highways and element of horizontal deflection are to be included at the pedestrian crossing points through the use of wide traffic islands.
- 7.10.20. The purpose of the spine road is to effectively re-distribute traffic between the A249 and Sittingbourne town centre and therefore is likely to provide an alternative route for some motorists.
- 7.10.21. Given the above, the proposal is considered to be in accordance with Policy DM6 of the Local Plan and the NPPF.

7.11. Air Quality

- 7.11.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.
- 7.11.2. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.
- 7.11.3. The Planning Practice Guidance on Air Quality states that
- “whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”.*
- 7.11.4. The Local Plan at 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.
- 7.11.5. While the site is not located within a designated Air Quality Management Area (AQMA) pollution from traffic generation and domestic boiler emissions was considered in the Public Inquiry related to the hybrid application across the whole MU3 development site. Substantive evidence and representation from all parties, including local residents (BRAD) on the issue was considered by the Planning Inspector. The LPA acknowledged at the Inquiry that air quality objectives would not be breached but additional pollution is being introduced.
- 7.11.6. The Inspector concluded that ‘with the link road and direct access onto the A249 it would result in reductions in traffic on the existing A2 and Key Street (roundabout which were the most sensitive receptors) with consequent decrease in congestion and improvements in air quality through reduced vehicle emission. Whilst the development would involve changes in air quality at the appeal site through vehicle emissions where no houses currently exist and

traffic levels are lower, with the direct mitigation measures and conditions to reduce dwelling emissions it is reasonable to conclude that air quality levels would be well below the objective limits. Thus, while the effects of the development could, simplistically be described as redistribution, the objectives to Policy DM6 (2d) that “...proposals do not worsen air quality to an unacceptable degree.....” is acknowledged.

- 7.11.7. Details for the scheme of air quality mitigation under Condition 70 of the hybrid permission was approved on 06/02/2023 under reference 22/502221/SUB which applies across the whole site and all phases.
- 7.11.8. The Environmental Protection Team have considered the reserved matters application but have no further comment or recommendations to make to those contained in their response to the hybrid application. They are satisfied that potential issues within the department’s remit are appropriately conditioned.
- 7.11.9. Given the appeal decision on this issue and subsequent approval of details it is considered that air quality is adequately addressed and the proposal is in accordance with Policy DM6 of the Local Plan and the NPPF.

7.12. Flood Risk, Drainage and Surface Water

- 7.12.1. The NPPF states that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in Policy DM21 of the Local Plan.
- 7.12.2. 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). The applicant has acknowledged that this will be submitted should the reserved matters be approved.
- 7.12.3. KCC Flood and Water Management have reviewed the application and raised questions around the calculations for the proposed basins and deep bore soakaways and asked for the submission of a surface water drainage strategy or an addendum.
- 7.12.4. Following receipt of updated drainage plans and a ‘Response to Consultee Comments’, KCC Flood and Water Management acknowledge that detailed drainage is to be submitted and dealt with under condition 49 and therefore have no further comments to make in relation to the reserved matters.
- 7.12.5. Given there has been no objection to the principle of the drainage approach as outlined at this stage 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.

7.13. Contamination

- 7.13.1. The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.
- 7.13.2. Condition 53 of the hybrid planning 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

not raised any contamination risk issue and the same comments above under air quality would apply. The proposal is therefore considered compliant with Policy MU3 (10) and the NPPF.

7.14. Living Conditions

Existing residents

- 7.14.1. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.14.2. Public responses to the consultation reference impact on living conditions from noise.
- 7.14.3. 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.
- 7.14.4. The impact on surrounding residents as a result of the construction activity will be controlled through condition 21 of the hybrid planning permission which restricts the hours of construction activity.
- 7.14.5. This phase of development runs through existing fields and crosses Cryalls Lane. As such there are no immediate existing residential neighbours affected by the proposal. Given the nature of this proposal as a road, there would be no adverse impact on residential amenity from the physical structure of the road itself and the proposal is considered to be in accordance with Policy DM14 of the Local Plan and the NPPF.

7.15. Other Matters

- 7.15.1. Concern has been raised by the public that the tuning head area would increase existing anti-social behaviour at the Borden Nature Reserve. The existing problem is not a planning issue and needs to be referred to the appropriate authority.
- 7.15.2. The provision of the spine road was considered at the hybrid application stage and approved with conditions to ensure its delivery. The wider proposal will eventually deliver residential properties within the vicinity of this area, which in turn will result in increased natural surveillance or at the very least the perception of natural surveillance. This tends to deter anti-social and criminal activity.
- 7.15.3. In their response Kent Police advised that, if approved, site security is required for the construction phase. Condition 20 of the hybrid planning permission requires the submission of a construction management plan which lists details of the erection and maintenance of security hoarding during construction of a phase.
- 7.15.4. Condition 20 also requires a number of other details including the route of the construction vehicles.
- 7.15.5. In terms of impact on residents' mental health, it is difficult to fully address and resolve as individuals are likely to be affected in by different aspects of the proposal and react in different ways. At appeal, the hybrid application has been considered acceptable and planning

permission granted with conditions attached and a s106 securing mitigation where possible to reduce impacts on surrounding residents and the environment.

7.16. Conclusion

- 7.16.1. The proposal is for the final section of the spine road that would serve the wider development site, which has the benefit of planning permission. The application is not considered to have an adverse impact on the wider highway network, ecology, heritage assets and the living conditions of surrounding residents having been considered at the Hybrid application stage. The design of the road follows the design of the two other sections of the spine road and is considered safe and acceptable by the Local Highway Authority. The proposal is in accordance with the policies set out above and the NPPF and is therefore recommended for approval.

7.17. Recommendation

- 7.17.1. Grant subject to conditions.

7.18. Conditions

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

Received 28 November 2023

17-051-119 Rev A – Strategic Contours Sheet 1 of 3

17-051-125 Rev A – Drainage Catchments Sheet 1 of 3

17-051-131 Rev A – Highway Adoption Areas Sheet 1 of 3

17-051-134 Rev A – Eastern Link Longitudinal Section Sheet 1 of 2

17-051-135 Rev A – Eastern Link Longitudinal Section Sheet 2 of 2

17-051-141 – Eastern Link Road Proposed Block Layout Sheet 1 of 3

Received 6 December 2023

17-051-122 Rev D – Drainage Layout Sheet 1 of 3

Received 23 February 2024

17-051-116 Rev E – General Arrangement Sheet 1 of 3

17-051-117 Rev E – General Arrangement Sheet 2 of 3

17-051-118 Rev D – General Arrangement Sheet 3 of 3

17-051-120 Rev C – Strategic Contours Sheet 2 of 3

17-051-121 Rev C – Strategic Contours Sheet 3 of 3

17-051-123 Rev E – Drainage Layout Sheet 2 of 3

17-051-124 Rev E – Drainage Layout Sheet 3 of 3
17-051-126 Rev C – Drainage Catchments Sheet 2 of 3
17-051-127 Rev C – Drainage Catchments Sheet 3 of 3
17-051-133 Rev C – Highway Adoption Areas Sheet 2 of 3
17-051-133 Rev C – Highway Adoption Areas Sheet 3 of 3
17-051-140 Rev C – Eastern Link Road Site Location Plan
17-051-142 Rev B – Eastern Link Road Proposed Block Layout (Sheet 2 of 3)
17-051-143 Rev B – Eastern Link Road Proposed Block Layout (Sheet 3 of 3)
17-051-146 – Eastern Link Road Construction Zone
WIS- BBA-ZZ-ZZ-DR-L-8005 Rev P02 – Soft Landscape 1 of 2
WIS- BBA-ZZ-ZZ-DR-L-8006 Rev P02 – Soft Landscape 2 of 2

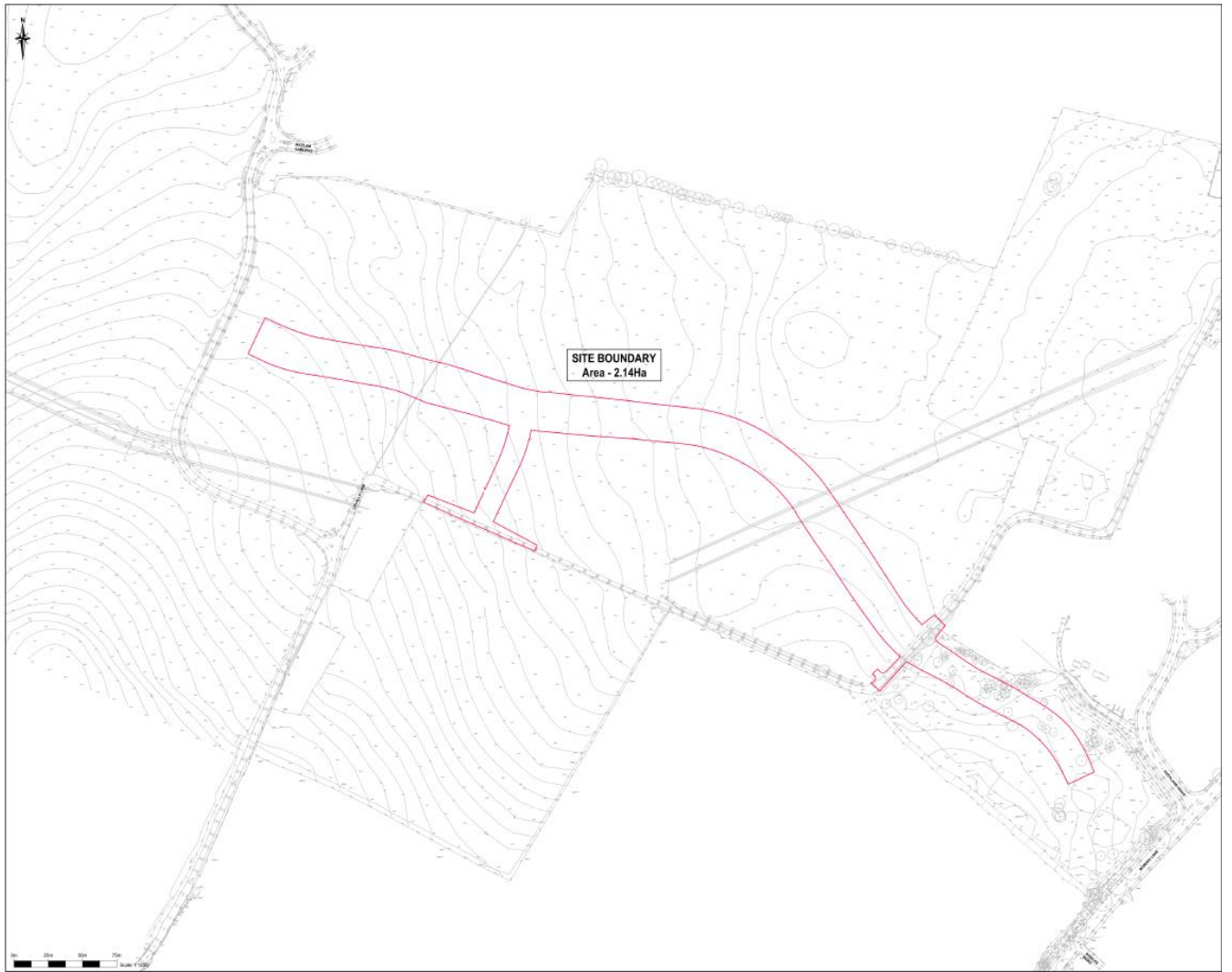
Received 08 April 2024

3825/TN17B Rev A/DM – Dormouse and Reptile Mitigation

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

2. Prior to the first use of the road except for vehicles in relation to construction activity, details of signage and specification of the public footpath intersections for ZR120 and ZU43 as shown on the approved General Arrangement Plans (17-051-116 Rev E, 17-051-117 Rev E and 17-051-118 Rev D) shall be submitted to and approved in writing by the Local Planning Authority. The signage shall be provided in accordance with the approved details before the road is open for use by the general public and the crossing come into use and shall thereafter be maintained.

Reason: To ensure the footpath connections across the development provide safety and avoid conflict between pedestrians and cycle use to comply with Policies MU3 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.



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2.2 REFERENCE NO - 24/500856/REM		
PROPOSAL 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.		
SITE LOCATION Land At Wises Lane Borden Kent ME10 1GD		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions.		
APPLICATION TYPE Reserved Matters		
REASON FOR REFERRAL TO COMMITTEE 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"> • The Impact upon the skylark mitigation land. • That the land be open natural space and not have pitches marked out. 		
Case Officer Joanna Russell		
WARD Borden And Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Karen Dunn AGENT DHA Planning
DATE REGISTERED 19.03.2024	TARGET DATE 13.08.2024	
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted. All representations received. <ul style="list-style-type: none"> • Phase 2F enabling earthworks plan • Ecology technical note • Covering letter responding to KCC Highways comments • Arboricultural method statement <u>Other applications</u> Appeal Decision for 17/505711/HYBRID, dated 29 April 2021 (uploaded 29 April 2021) 17_505711_HYBRID--5237532.pdf (midkent.gov.uk) The full suite of documents submitted pursuant to the above application are available via the link below: - 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)		

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 (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 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

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:

Comment	Report reference
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
It is difficult to understand what is being applied for.	7.12.1

4.3. **Borden Parish Council** objected to the application on the following grounds:

Comment	Report reference/ clarification
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:

Comment	Report reference/ clarification
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.

- 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
- 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 acknowledged 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.

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 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
 - 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 Fiery 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.
- 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.
- 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.

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.
- 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

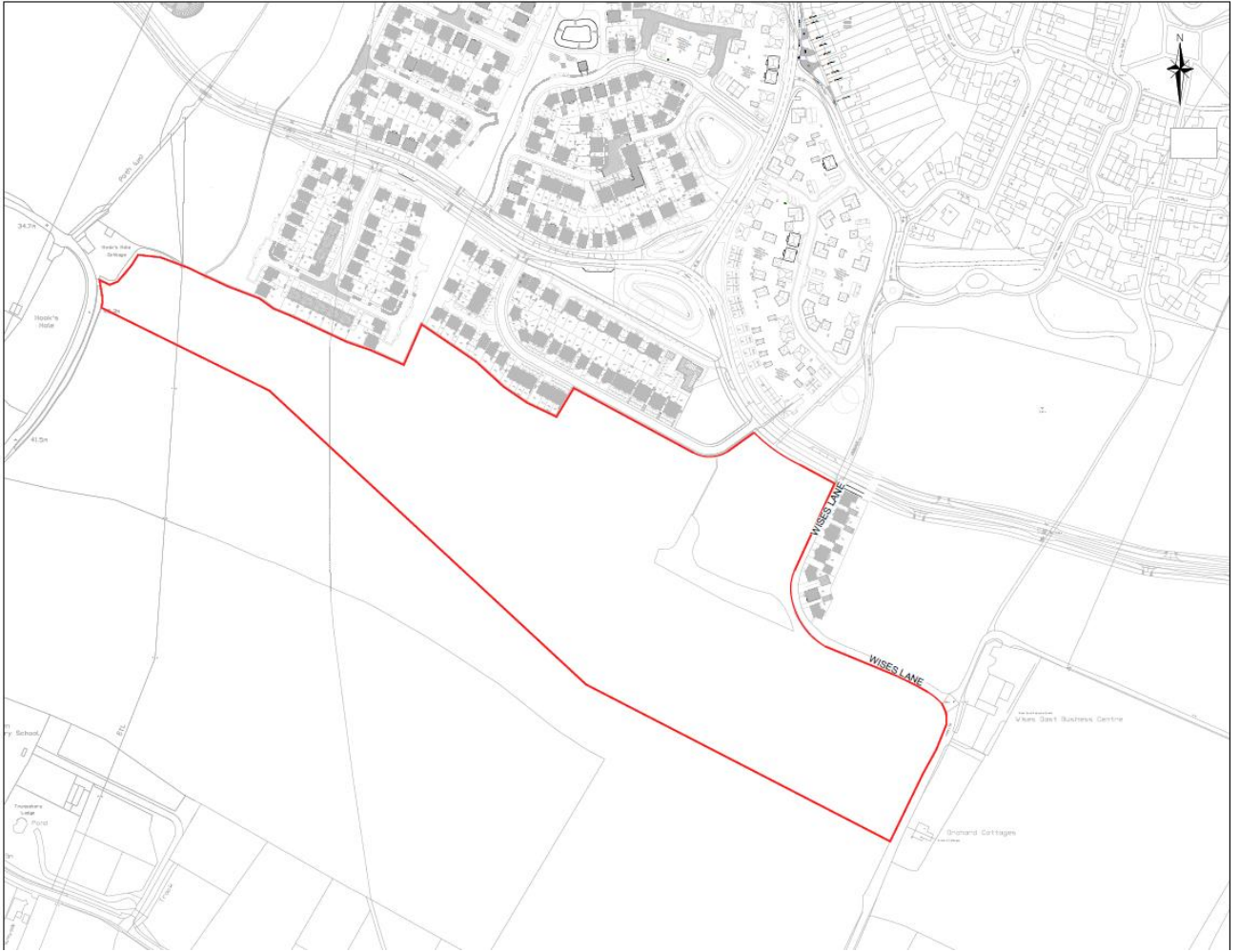
17-051-145-D Phase 2F Enabling Earthworks Sections

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.



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2.3 REFERENCE NO - 23/502210/FULL		
PROPOSAL Construction of a solar farm together with control building, switch room, substations and compound, point of connection equipment, store room, access track, security measures, associated infrastructure and works, landscaping and biodiversity enhancements.		
SITE LOCATION Land on Either Side of Vigo Lane And Wrens Road, Sittingbourne, Kent, ME9 8LA		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Major		
REASON Bredgar Parish Council and Borden Parish Council object to the proposal. The main concerns of the Parish Councils are: <ul style="list-style-type: none"> • Loss of agricultural land • Impact on the National Landscape • Impact on dormouse due to hedgerow removal 		
Case Officer Carly Stoddart		
WARD Borden and Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Industria Solar Vigo Ltd. AGENT Wardell Armstrong LLP
DATE REGISTERED 05/05/2023		TARGET DATE 14/08/2024
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted. All representations received. Agricultural Land Classification Report, dated April 2023 (uploaded 03 May 2023) Alternative Site Assessment, dated April 2023 (uploaded 03 May 2023) Landscape and Visual Assessment and associated viewpoints, dated April 2023 (uploaded 03 May 2023) Landscape and Visual Assessment Technical Note and associated viewpoints, dated 19/02/2024 (uploaded 26 February 2024) Landscape and Visual Appraisal - Landscape Strategy Plan NT16093-LVA 116 Rev B, dated 08/03/2023 (uploaded 26 February 2024) Agent Response to Consultee Comments, dated 19 April 2024 (uploaded 19 April 2024) Agent Response to National Highways, dated 18 April 2024 (uploaded 18 April 2024) Letter to KCC PROW, dated 29 September 2023 (uploaded 29 September 2023)		

Noise Assessment Report, dated April 2023 (uploaded 03 May 2023)
Transport Statement, dated April 2023 (uploaded 03 May 2023)
Glint Assessment, dated April 2023 (uploaded 03 May 2023)
Letter to KCC Highways, dated 29 September 2023 (uploaded 29 September 2023)
Transport Technical Note, dated 11/01/2024 (uploaded 23 January 2024)
Letter from Wardell Armstrong, dated 9 February 2024 (uploaded 09 February 2024)
Agent Response to National Highways dated, 18 April 2024 (uploaded 18 April 2024)
Breeding Bird Survey, dated April 2023 (uploaded 03 May 2023)
Biodiversity Offsetting Assessment, dated April 2023 (uploaded 03 May 2023)
Wintering Bird Survey, dated April 2023 (uploaded 03 May 2023)
Ecological Appraisal, dated April 2023 (uploaded 03 May 2023)
Biodiversity Matrix, undated (uploaded 19 September 2023)
Response to KCC Ecology Comments, dated 19 September 2023 (uploaded 19 September 2023)
Archaeological and Heritage Statement, dated April 2023 (uploaded 03 May 2023)
Flood Risk Assessment, dated 2023 (uploaded 03 May 2023)
Land Contamination Assessment, date 03 April 2023 (uploaded 03 May 2023)
Outline Decommissioning Plan, dated May 2023 (uploaded 12 May 2023)

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

[23/502210/FULL | Construction of a solar farm together with control building, switch room, substations and compound, point of connection equipment, store room, access track, security measures, associated infrastructure and works, landscaping and biodiversity enhancements. | Land On Either Side Of Vigo Lane And Wrens Road Sittingbourne Kent ME9 8LA \(midkent.gov.uk\)](https://midkent.gov.uk/23/502210/FULL | Construction of a solar farm together with control building, switch room, substations and compound, point of connection equipment, store room, access track, security measures, associated infrastructure and works, landscaping and biodiversity enhancements. | Land On Either Side Of Vigo Lane And Wrens Road Sittingbourne Kent ME9 8LA)

1. SITE LOCATION AND DESCRIPTION

- 1.1. The application site comprises agricultural fields with a combined area of approx. 61.44ha and is located south of Oad Street and Borden with the M2 motorway located to the south. The site is intersected by two roads, Vigo Lane and Wrens Road. There are also public rights of way (PRoWs) and bridleway adjacent to and running through the site.
- 1.2. The land is within the open countryside and comprises agricultural land. The site is not subject to any landscape designations but is identified in the Swale Landscape Character and Biodiversity Appraisal SPD (SLC&BA) as being within the Tunstall Farmlands character area (no.42). The land on the opposite side of the M2 motorway is designated as a national landscape (formerly known as AONB).

- 1.3. The topography of the site is such that the site rises gradually towards the south, with the highest point being towards the west of the western field. The eastern fields are slightly undulating.
- 1.4. The site is not within a conservation area and there no listed buildings on the site nor are there any trees subject to a TPO. There are however listed buildings to the north of the site.
- 1.5. The site is wholly within flood zone 1.
- 1.6. There is a scattering of residential properties along the country lanes mainly to the north and some to the east. There are also residential properties to the southern side of the M2 motorway.

2. PLANNING HISTORY

- 2.1. **22/500693/ENVSCR** - EIA Screening opinion for Proposed Solar Farm.

Environmental Impact Assessment not required, 25/02/2022

3. PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the construction of a solar farm together with control building, switch room, substations and compound, point of connection equipment, store-room, access track, security measures, associated infrastructure and works, landscaping and biodiversity enhancements.

Solar Panels

- 3.2. The solar panels would be arranged in rows on an east-west alignment and facing south to maximise sunlight exposure.
- 3.3. Each panel would be two in portrait and measure approx. 2.2m (l) x 1.1m (w) x 0.3m (d). There would be a 20mm rain gap between the two level of panels to aid drainage.
- 3.4. The panels would be angled at 25 degrees for optimum solar gain, with the rear being a maximum of 3m from ground level and 0.8m from ground level at the front.
- 3.5. The pitch of each row of panels would be 8.5m apart with approximately 4.4m clearance distance to reduce overshadowing and allow access for any required maintenance.

Invertors

- 3.6. Inverters would be positioned on the rear of the panels. Inverters convert the Direct Current (DC) electricity generated by the panels into Alternating Current (AC) before it is exported to the local distribution network. They would be placed at regular intervals along the rows of panels.

Substation Compound

- 3.7. A substation compound would be located in the southern area of the site. It would comprise a transformer, the switchgear, isolation and metering equipment.
- 3.8. The customer substation building would be approx. 6m (l) x 4m (w) x 2.75m (h) and located to the immediate south of the compound area. The building would comprise the switchgear, isolation and metering equipment. The building would be constructed of galvanised steel and coloured olive green (RAL 6003).
- 3.9. The compound area would be divided into two elements: the DNO (Distributer Network Operator) and customer substation. The DNO substation is high voltage and directly connects to the DNO's grid infrastructure, whereas the customer substation is the area where the developer has full access to their equipment and is the hub where the power from the solar farm is filtered across to the DNO substation and then out on to the local distribution network. There would be two separate access gates via the internal access track.
- 3.10. The substation compound would be approximately 20m x 43m in surface area. The height of the tallest piece of equipment within the compound would be both the high- and low-level disconnectors at approx. 5.25m. Flood lighting towers at a height of approx. 5m would also be within the compound.
- 3.11. All equipment would be contained within a 2.4m high galvanised security palisade fence and covered by the site-wide CCTV cameras.
- 3.12. A storage cabin would also be located near to the compound for the safe storage of spare equipment. The cabin would be approx. 6.2m (l) x 2.5m (w) x 3m (h). The cabin would also be constructed of galvanised steel and coloured olive green (RAL 6003).

Point of Connection

- 3.13. The point of connection would be located within the site boundary at an existing 132kV transmission tower, approximately 340m north of the substation compound. A cable route would run from the compound area to a low-level disconnector and surge arrestors which would then connect to the tower by downleads and anchor blocks. The disconnector and arrestors would both be approximately 4m in height.

Access and Internal Tracks

- 3.14. The site would be accessed from an existing farm track via Oad Street to the west of the site. The access track would reach from the access road along the southern boundary of the site, connecting the parcels of land by a crossing at both Vigo Lane and Wrens Road. This route uses existing field accesses used by agricultural vehicles.
- 3.15. Where new or upgraded tracks are required, these would take the appearance of vernacular farm tracks with a gravel surface. The gravel would be placed over a sub-surface which itself would be constructed on a geotextile membrane. The access tracks would reflect the appearance of typical access tracks.

Fencing and Security

- 3.16. A 1.9m high galvanised steel wire deer control fencing with woodland fence posts would be erected around all equipment, including solar panels to ensure the protection of infrastructure from damage. The fencing would include mammal gates to allow for the movement of local ecology through the site. Adjacent to the fencing would also be 117 infrared CCTV cameras atop a galvanised steel pole, measuring a total height of 3m. The cameras themselves would be coloured white. All cameras would be inward facing towards the site and equipment to ensure the security of the site without intruding on any private views.

Landscaping

- 3.17. The majority of existing hedgerows and trees would be retained, with new planting proposed where hedgerows have gaps or are of poorer quality. Overall, approximately 6km (3.7 miles) of native species hedgerows are proposed to be planted within the site.
- 3.18. Extensive new tree planting would occur along some sections of the site which border the M2 motorway and where the presence of trees is currently scant and two areas of tree planting are proposed on both sides of Wren Road.
- 3.19. Each field would be seeded with a locally appropriate wildflower mix to the benefit of pollinators, insects, and various bird species. A 10m buffer zone of wildflower grassland is being proposed between the site's fences and the solar equipment. A pond is also proposed amongst the meadow grassland near to Vigo Lane.

4. CONSULTATION

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

Comment	Report reference
Visual impact	Section 7.4
Increased traffic and disruption	7.6.5 – 7.6.7, 7.6.10
Impact of Lighting	7.15.2
Loss of countryside, land, hedgerows and planting	7.8.27 – 7.8.32
Loss of nesting opportunities for birds	7.8.7 – 7.8.21
Impact of short term use and disposal of panels at the end of life	7.16.1
Increased flooding	7.11.3 – 7.11.6

- 4.3. **Bredgar and Borden Parish Councils** objected to the application on the following grounds: -

Comment	Report reference/ clarification
Bredgar and Borden Parish Councils Loss of grade 2, 3a and 3b agricultural land. Building development on grades 2 and 3a land is inconsistent with Swale planning policies, and is not welcome in this time of reduced food security	7.3.13 – 7.3.34
Bredgar and Borden Parish Councils The proposed farm will impact negatively on the setting of the AONB, in terms of visual impact, noise and light pollution and also the countryside gap.	Section 7.4, 7.5.10, 7.14.2 – 7.14.5, 7.15.2
Borden Parish Council Concerned hedge removal would destroy dormouse corridors.	7.8.24 – 7.8.26
Borden Parish Council If granted, construction traffic should enter the site by Vigo Farm and no traffic should enter the thoroughfare of the Oad Street settlement	7.6.10

- 4.4. In addition to the objection above, Bredgar and Borden Parish Council made further comments in recognition that due to the climate change crisis and need for urgent action, Swale Borough Council may take the view that this application merits an exception, and decide on approval. In such a situation Bredgar and Borden Parish Councils would raise no objection, provided that conditions are imposed to reduce the negative impact.
- 4.5. Further depth to the environmental improvements outlined could be the landowner/applicant investigating new ways of providing environmental benefits from the project such as the Government's Environmental Land Management Scheme (ELMS), by association with a carbon offset scheme or the Kent County Councils Tree Establishment Strategy "Plan Tree". This might enable the planting of woodland on the southern side opposite the solar farm to provide additional benefits for the environment, wildlife, a natural sound barrier against traffic noise from the M2, offset harm to the setting of the AONB and enhance the tranquillity of the AONB. The Parish Council would like to engage with and support any such initiatives if contacted.
- 4.6. Members are asked to consider the above potential conditions fully, with a view to enabling a boost to the 'green energy' provision in Kent, while minimising damage and creating a positive impact on the environment.

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 has been one rounds of consultation for most consultees. For those individual consultees that have been consulted more than once, it is stated under their heading below.

5.2. **National Highways:** - There have been five rounds of consultation.

National Highways initially issued a holding objection requesting further details regarding collision data related to the Oad Street and A249 junction concerns raised regarding the impact of glint and glare on the users of the M2 motorway. Conditions were recommended regarding other aspects of the proposal.

Following the submission of further information, National Highways are now content that the proposal would not have an unacceptable impact on highway safety, reliability and/or operation efficiency of the strategic road network. Further conditions have been recommended.

5.3. **Environment Agency:** - No objection subject to suggested planning conditions being included.

5.4. **Natural England:** - Advise officers to use Impact Risk Zones to determine whether proposals impact statutory nature conservation sites and to use Natural England's standing advice.

5.5. **Historic England:** - Not offering advice on these proposals

5.6. **Southern Water:** -Provide extract of their records showing approximate position of water trunk mains within the site and give advice on the proximity of development and/or natural features. Advice is provided regarding any sewers found to be crossing the site and in relation to Sustainable Urban Drainage Systems (SUDs).

5.7. **Lower Medway Internal Drainage Board:** -The site is outside the drainage district of the Lower Medway Internal Drainage Board and the application proposal is beyond our remit.

5.8. **Swale Footpaths Groups:** - The proposed site plan shows the PRow's (ZRs 138, 134, 169 and 141) across the site as remaining unobstructed. If permission is granted, they could be waymarked across the site.

5.9. **Kent Downs National Landscape Unit (Formerly AONB Unit):** - There have been three rounds of consultation.

Initially requested further viewpoints from the National Landscape be undertaken and expressed concern with limited planting proposals along the southern boundary, the siting of the substation and compound and other associated infrastructure to the southern end of the site as well as the colour of the structures being proposed as olive green. Stated the need for a condition to ensure agricultural management of the land for return to agricultural use at the end of the temporary permission.

Other than the colour of the infrastructure, the concern with regard to the impact on the National Landscape as a result of the aspects described in the paragraph above remain. Request for more structural planting along the southern boundary.

5.10. **KCC Ecology:** - There have been four rounds of consultation.

The initial response requested further ecological information in relation to the mitigation strategy for farmland birds, badger mitigation strategy, additional survey information for hazel dormouse and the BNG Defra metric calculation spreadsheet and condition assessment sheets.

In response to further information, KCC Ecology are satisfied that sufficient information has been submitted and no objection is raised subject to a number of conditions.

5.11. **KCC Flood and Water Management:** - No objection in principle subject to suggested conditions. Advice given is in terms of the modelling to be used for further calculations to address the suggested conditions.

5.12. **KCC PRow:** - There have been six rounds of consultation (this in part due to consultations not having been received by the relevant officer on two occasions)

The Public Rights of Way affected by the site are listed. Initially a holding objection was issued. Throughout the consultation responses concerns expressed around the omission of reference to some of the above PRow routes, safety aspects of the site access during construction, the location of the construction compound, the CCTV coverage, width of footpaths, location of the substation, lighting towers, inadequate signage and the extent and density of the solar array. A request for a financial contribution was made with the view to compensate harm arising from the proposal.

The most recent response indicates there is still concern with regard to the safe use of the access during construction, the location of the construction compound, the CCTV coverage, widths of the PRow, location of the substation and lighting towers and lack of agreement to the requested financial contribution.

5.13. **KCC Highways:** - There have been three rounds of consultation.

The initial response raised no objection to the use of the access and the trio generation subject to relevant conditions. Further details were requested with regard to the number of passing places along the internal access road.

Following receipt of the requested information, KCC Highways is satisfied with the proposal subject to recommended conditions.

5.14. **KCC Archaeology:** - Agree that the present baseline has not found any heritage assets that would preclude development and that the development impacts in terms of ground disturbance are limited and can be managed. Satisfied potential impacts can be addressed through further assessment, evaluation and design that can be secured by condition.

5.15. **Kent Police:** - There have been two rounds of consultation.

Provision of advice from a general crime reduction and safety aspect. Recommend a 2m or higher metal security fence. Deer fencing offers little security value from a determined attack. However, appreciate the rural nature of this large site and acknowledge that the installation of a full high spec security fence would probably not be Appropriate, Realistic and Cost effective (ARC) or in keeping with rural environment. Regular fence patrols are recommended to ensure that any fencing has not been attacked or compromised.

5.16. **Mid Kent Environmental Health:** - There have been two rounds of consultation.

The Contaminated Land Assessment is satisfactory and concludes a low risk. Conditions are suggested.

5.17. **SBC Heritage:** - No objection in principle to the proposed development provided there is effective landscape mitigation to block or limit intervisibility between the Grade II listed Sutton Baron House and Sutton Baron Hall, located to the north of the site and other affected heritage assets and the proposed solar farm. Conditions are recommended.

5.18. **SBC Tree Officer:** - The main impact of the development will result in the removal of five short sections of hedgerow to accommodate new access points. This would not be detrimental and can be easily mitigated through compensatory planting. A condition is recommended to secure this.

6. DEVELOPMENT PLAN POLICIES

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017

- ST1** Delivering Sustainable Development in Swale
- CP4** Requiring Good Design
- CP7** Conserving and Enhancing the Natural Environment – Providing for Green Infrastructure
- CP8** Conserving and Enhancing the Historic Environment
- DM6** Managing Transport Demand and Impact
- DM7** Vehicle parking
- DM14** General Development Criteria
- DM19** Sustainable Design and Construction
- DM20** Renewable and Low Carbon Energy
- DM21** Drainage and Flood Risk
- DM24** Conserving and Enhancing Valued Landscapes
- DM28** Biodiversity and Geological Conservation
- DM31** Agricultural Land
- DM32** Development Involving Listed Buildings
- DM33** Development Affecting a Conservation Area
- DM34** Scheduled Ancient Monuments and Archaeological Sites

Supplementary Planning Guidance/Documents

- Landscape Character and Biodiversity Appraisal, 2011

- Renewable Energy Planning Guidance Note 1: The Development of Domestic and Medium Scale Solar PV Arrays up to 50kW and Solar Thermal, 2014
- Kent Downs AONB Management Plan 2021-2026
- Renewable Energy Position Statement (2011) By Kent Downs AONB Unit
- Guidance on the Selection and Use of Colour in Development by Kent Downs AONB Unit

The National Planning Policy Framework

7. ASSESSMENT

7.1. This application is reported to the Committee because two Parish Councils have objected to the proposal. Considering these comments, the committee is recommended to carefully consider the following points: -

- Loss of agricultural land
- Impact on the National Landscape
- Impact on dormouse due to hedgerow removal

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

- The Principle of Development
- Landscape and Visual Impact
- Public Right of Ways
- Transport and Highways
- Glint
- Ecology
- Heritage
- Archaeology
- Flood Risk, Drainage and Surface Water
- Contamination
- Air Quality
- Living Conditions
- Designing out Crime
- Decommissioning

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. Need

- 7.3.4. The Climate Change Act 2008 (as amended) sets out the legal obligation of the UK to achieve a 100% reduction in greenhouse gas emissions from 1990 levels (net zero) by 2050. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.
- 7.3.5. Locally, Swale Borough Council declared a climate and ecological emergency on 26 June 2019 and through its Climate and Ecological Emergency Action Plan, 2020 (CEEAP) has made a firm commitment to the borough becoming a carbon neutral Council by 2030. The CEEAP identifies renewable energy generation within the borough as a key component of how Swale will achieve zero net carbon emissions by 2030.
- 7.3.6. More recently, the British Energy Security Strategy (2022) strengthened policy support for ground-based solar on non-protected land, showcasing the increasing importance of photovoltaic technology. This Strategy states that the ambition is to achieve 70GW of solar capacity by 2035. Solar farms can be constructed quickly on land under just one or a few ownership titles, significantly boosting the renewable energy generated in the UK in the short term rather than relying on a large number of owners to be in a position to consider roof-mounted panels, particularly in times of economic hardship. The temporary nature of large-scale solar farms speeds up the transition of domestic renewable energy sources whilst other sources are enhanced or developed.
- 7.3.7. Chapter 14 of the NPPF specifically relates to meeting the challenge of climate change stating that the planning system should support the transition to a low carbon future. At paragraph 163(b), the NPPF says that when determining planning applications for renewable and low carbon development, Local Planning Authorities should approve the application if its impacts are (or can be made) acceptable. This is supported locally at Policies ST1(10b) and DM20 of the Local Plan.
- 7.3.8. The submitted documentation states that, '*the proposed development would significantly support the goals of and contribute to both local and national Climate Change targets*'. The solar farm would generate 40MW of electricity every year which is enough to power 11,550 homes annually and is the equivalent of offsetting 8,152 tonnes of CO2 emissions per year.
- 7.3.9. In addition, solar farms are an opportunity to address other concerns, such as the Ecological Emergency which is widely acknowledged nationally and jointly declared alongside the Climate Emergency by SBC and Kent County Council. The BNG result for the project is 190.54% in linear units and 299.32% in hedgerow units which is a very significant net gain in biodiversity.
- 7.3.10. Recent appeal decisions indicate that substantial weight and significant weight is being attached to the benefits of renewable energy generation and BNG improvements respectively.

- 7.3.11. Given the strong policy support for the proposal, the principle of the development is acceptable. However, the consideration of more detailed matters, including the environmental impact is required.
- 7.3.12. Subject to the assessment of the detailed matters, the principle of the proposal for renewable and low carbon energy development in the form of solar panels is supported by the Government at national level at paragraphs 163 of the NPPF and at a local level by Local Plan Policies ST1 and DM20. The assessment of more detailed matters is set out below.
- 7.3.13. Agricultural Land and Alternative Sites
- 7.3.14. The application site is located within the countryside and comprises agricultural land.
- 7.3.15. Paragraph 88 of the NPPF supports development for a prosperous rural economy stating at subsection (b) that planning policies and decisions should enable:
b) the development and diversification of agricultural and other land-based rural businesses.
- 7.3.16. Paragraph 180(b) of the NPPF says that planning decisions should contribute to and enhance the natural and local environment by:
b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 7.3.17. Policy DM31 of the Local Plan states that development on agricultural land will only be permitted where there is an overriding need that cannot be met within the built-up area boundaries and Policy DM20(4) of the Local Plan requires schemes on agricultural land to demonstrate that poorer quality land has been used in preference to higher quality and in exceptional cases, where schemes are demonstrated as necessary on agricultural land, that they fully explore options for continued agricultural use.
- 7.3.18. Best and most versatile agricultural land (BMV) is defined in the NPPF as land in grades 1, 2 and 3a of the Agricultural Land Classification. At footnote 62 of the NPPF, there is a preference for the development of areas of poorer quality land over higher quality where significant development of agricultural land is demonstrated to be necessary and the availability of agricultural land used for food production should be considered, alongside the other policies in the framework when deciding what sites are most appropriate for development.
- 7.3.19. For planning applications, specific consultations with Natural England are required under the Development Management Procedure Order in relation to best and most versatile agricultural land. These are for non-agricultural development proposals that are not consistent with an adopted local plan and involve the loss of twenty hectares or more of the best and most versatile land. Natural England (NE) has been consulted on this application but did not comment on the proposal.
- 7.3.20. An Agricultural Land Classification report has been submitted with the application. The report concludes that the site is predominantly Subgrade 3a – good quality

(approx. 32.07 ha, 53%) and Grade 2 – very good quality (approx. 22.55 ha, 37.3%) with smaller areas of Subgrade 3b – moderate quality (approx. 5.73ha, 9.4%) and some areas in non-agricultural use (approx. 11 ha, 0.2ha).

- 7.3.21. The proposal would therefore predominantly sit on BMV agricultural land.
- 7.3.22. As stated above, the proposed development is supported by Policy DM20 of the Local Plan, which states that standalone renewable installations, amongst other criteria, shall demonstrate:
- 4. For schemes on agricultural land, it has been demonstrated that poorer quality land has been used in preference to higher quality. In exceptional cases, where schemes are demonstrated as necessary on agricultural land, that they fully explore options for continued agricultural use;*
- 7.3.23. Alternative Sites
- 7.3.24. The application has also been supported by an Alternative Site Assessment to identify other potential suitable sites for the proposed development within 3km of the point of connection (beyond this, a solar farm connecting to this point of connection would not be deemed viable). The consideration of alternative sites is undertaken within certain parameters. These are that:
- the site must realistically be able to host a facility of the same size, with similar associated construction and grid connection costs which means it needs to be in close proximity to a grid connection point.
- the parcel of land needs to be of a sufficient size to accommodate the equipment for a 40MW solar farm and therefore approx. 60 ha is required.
- the equipment needs to be located outside of areas at risk of flooding, to avoid damage to electrical equipment in times of flood.
- the site needs to avoid designated landscape, heritage and ecological assets and any other known environmental constraints.
- 7.3.25. Ideally, alternative sites would be sought on lower quality agricultural land (grades 3b, 4 and 5), or previously developed land.
- 7.3.26. After taking into consideration of the above parameters only a small number of sites (5) for this scale of solar farm were identified. Within 3km of the point of connection provisional data suggests that the surrounding agricultural land is also mostly Grade 2, with Grade 1 'Excellent' to the north and Grade 3 to south (it is not specified whether this is Grade 3a or 3b). This is consistent with the Council's own GIS mapping system. Other constraints that have been taken into account when considering alternative sites include (but are not limited to): the area designated as the Kent Downs National Landscape, listed buildings, conservation areas, protected military remains, flood zones 2 and 3, minerals safeguarding areas, areas of high landscape value, local designated sites of biodiversity, ancient woodland and the M2 motorway.
- 7.3.27. The potential alternative sites have been carefully considered taking account of the parameters and the constraints of each site and it is considered that it has been sufficiently demonstrated that there is no alternative site.

- 7.3.28. Neither the NPPF, nor the Local Plan policy prevent the use of BMV agricultural land but requires that the benefits need to justify the loss. The proposal would change the use of the land for a period of 40 years, which accords with the life expectancy of new panels. Whilst this is a significant period of time it is not permanent.
- 7.3.29. Given the height and angle of the proposed panels, grass will be able to grow under the panels satisfactorily as well as between the rows of panels, effectively leaving the site fallow, allowing the fields to be brought back into agricultural use in the future including for food production ensuring food security is not compromised.

Continued Agricultural Use

- 7.3.30. The land could still be put to agricultural uses such as livestock grazing and that the solar farm will create an alternative income for the farming business.
- 7.3.31. It is recognised that the land can still play an important part in both agricultural and environmental purposes. Grazing can take place across the land below the proposed panels and also the land can be rested and left to develop as wildlife meadow.
- 7.3.32. It is considered that the proposal would not result in a harmful loss of agricultural land and that alternative sites have sufficiently been considered. The proposal would not conflict with Local Plan policy.
- 7.3.33. The temporary loss of BMV agricultural land is not contrary to the policies as set out within the development plan and the NPPF and the benefits through the provision of a solar farm generating renewable energy in this location are considered to outweigh the temporary loss of this agricultural land. As such, the effect on and temporary loss of agricultural land affords limited weight in the planning balance.
- 7.3.34. Having taken account of the need, the siting on agricultural land and the consideration of alternative sites, the proposal is in accordance with the Local Plan and NPPF.

7.4. Landscape and Visual Impact

- 7.4.1. National and Local renewable energy policies adopt a supportive approach towards renewable energy and provide that development will be approved where any harm would be outweighed by the benefits.
- 7.4.2. The NPPF requires that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 7.4.3. The NPPF also attaches great weight to conserving and enhancing landscape and scenic beauty in National Landscapes (formerly AONBs), stating that *‘the scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid and minimise adverse impact on the designated areas’*.

- 7.4.4. The proposal is for a solar farm on an agricultural lane outside the built-up boundary. The application site itself is a non-designated landscape. The land on the opposite of the M2 motorway, which is designated as the Kent Downs National Landscape.
- 7.4.5. Local Plan Policies ST1 and DM14 of the Local Plan both contain parts that seek to conserve and enhance the natural environment.
- 7.4.6. Policy DM24 of the Local Plan specifically relates to conserving and enhancing valued landscapes. Part A of this Policy refers to designated landscapes including their setting. Part B relates to non-designated landscapes.
- 7.4.7. Part A of Policy DM24 of the Local Plan states that *'major development within AONBs should be refused unless exceptional circumstances prevail as defined by national policy'*. Part A of Policy DM24 then goes on to provide specific criteria for granting planning permission for development within a national landscape. The criteria is as follows:
1. conserving and enhancing the special qualities and distinctive character of the AONB in accordance with national planning policy;
 2. furthering the delivery of the AONB's Management Plan, having regard to its supporting guidance documents;
 3. 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
 4. being appropriate to the economic, social and environmental wellbeing of the area or being desirable for the understanding and enjoyment of the area.
- 7.4.8. At the local level the proposed development is located wholly within the Tunstall Farmlands local character area (LCA) within the Swale Landscape Character and Biodiversity Appraisal (2011).
- 7.4.9. The description of the LCA states that around the historic villages of Bredgar and Tunstall orchards still exist, but elsewhere fields have been opened up to make way for large-scale agricultural intensification. This has led to the creation of a diverse rural landscape, which includes small patchworks of enclosed orchards and open large-scale fields where hedgerows have been lost.
- 7.4.10. Many mature hedgerows are still maintained in good order with some fragmentation and loss along lanes. Orchards tend to be mature or remnant with some grazed by sheep. In places fruit trees have been removed entirely and mature shelterbelts surround empty fields.
- 7.4.11. The application is accompanied a Landscape Visual Assessment (LVA) which assesses landscape visual impacts and has been reviewed by an independent Landscape Consultant on behalf of the Council. The LVA report contains an appendix (1) setting out the methodology and the criteria for the assessment. A number of viewpoints have also been assessed to represent typical views from publicly accessible locations. This includes additional viewpoints as agreed by the National Landscape Unit, the PRow Officer and the Council's Independent Consultant.

- 7.4.12. To establish the impact of the proposal, assessments have been undertaken to ascertain the landscape value, visual effects, landscape effects and with regard to cumulative landscape effects.
- 7.4.13. Landscape Baseline
- 7.4.14. The site falls within open farmland north of the M2, outside the Kent Downs National Landscape. The site itself is not subject to any landscape designations (national or local). The Kent Downs National Landscape lies to the south of the M2, and the Rodmersham, Milstead and Highsted dry valleys Area of High Landscape Value – Kent level, lies to the east. The landscape of the site is in a good condition and although it is undesignated it has some scenic value and forms part of the wider setting of the Kent Downs National Landscape area.
- 7.4.15. Landscape sensitivity to the proposed development combines judgments on the site's susceptibility to the proposed development and landscape value attached to the site. Susceptibility defines the ability of the site to accommodate the proposed development without undue consequences for the baseline conditions.
- 7.4.16. A range of factors that influence susceptibility have been assessed to conclude the overall susceptibility of the landscape on the application site to the proposed development is 'medium'.
- 7.4.17. Combined 'medium susceptibility' with 'medium value' results in a 'medium sensitivity' as most of the landscape characteristics are of a 'medium resilience' to the proposed development.
- 7.4.18. The LVA assessment of sensitivity of the surrounding area is as follow:
- Tunstall Farmlands LCA: Medium to high (from medium to high value and medium susceptibility – the increase in value applies to those parts of the LCA lying within the National Landscape);
 - The National Landscape setting: Medium (from medium value and susceptibility); and
 - The National Landscape: Medium to high (from high value and medium susceptibility).
- 7.4.19. The baseline of the site has been considered by the Council's Landscape Consultant who considers that given that as sensitivity is influenced by the presence of the National Landscape, which must be regarded as high value, then its combination with medium susceptibility would indicate high sensitivity overall. Using this as a benchmark suggests that the surrounding Tunstall Farmlands could be of medium to high sensitivity where they form part of its setting, falling to medium sensitivity where they do not.
- 7.4.20. As the application site forms part of the setting the sensitivity of the site should probably be considered to range between medium to medium/high, rather than just medium as concluded by the LVA, particularly given the degree of public access, its inter-visibility with the National Landscape and by the predominance of arable land, which maintains openness and is highly susceptible to the type of development proposed. However, it is also noted that the sensitivity is influenced by the presence of the M2 motorway and the power lines, which also must be taken into account.

7.4.21. Visual Baseline

7.4.22. Visual receptors include the public or community at large, including residents, visitors and travellers through the landscape. The LVA identifies the following three categories of visual receptors (with their assumed sensitivity): users of PRowS (high), residents (high) and road users (medium). The Council's Landscape Consultant considers these levels of sensitivity to be reasonable.

7.4.23. Representative viewpoints from the PRowS network within the site and the wider study area of the LVA form the basis of the assessment of the potential effects of the proposed development on views and visual amenity. These include additional viewpoints as requested by National Landscape Unit.

7.4.24. Potential Landscape Effect and Impact on Character - Construction

7.4.25. The LVA considers effects at Year 1 (completion of construction, but before mitigation has begun to take effect) and Year 15 (allowing for landscaping to become established), which is consistent with best practice.

7.4.26. As a result of the nature of the proposal, the construction period is short (approx. 5 months). Construction activities will affect both the site's physical characteristics such as the land use and landscape character and the perceptual characteristics of the local area such as tranquillity.

7.4.27. In terms of the impact on landscape character, the construction process would introduce temporary and intermittent construction activity, movement of personnel and machinery onto the site. Overall, the LVA describes the magnitude of change as medium as construction activities will be perceptible predominantly within 500m from the site. The duration of the effect will be brief and reversible. Overall medium sensitivity combined with medium magnitude of change result in moderate adverse landscape effect.

7.4.28. Potential Landscape Effect and Impact on Character - Operation

7.4.29. The effect and residual effect on the landscape character of the site and the abovementioned Kent Downs National Landscape and the Tunstall LCA, is set out in the LVA.

7.4.30. The Site

7.4.31. The site is currently in arable use. The proposed development will change the land use and introduce solar panels and new buildings/structure on the site. Whilst arable land use will cease on-site, the land underneath solar panels can be used potentially for some agricultural and/or biodiversity enhancements resulting in partial alteration to the key characteristic of the site.

7.4.32. The LVA concludes that the likely effects during operation in year 1 will result moderate adverse overall effects. The review by the Council's Landscape Consultant considers this to be an understatement of the effect as the character of the site would experience a fundamental change – from a parcel of farmland to a commercial solar farm, including loss of its characteristic arable use and openness. This suggests that

the magnitude of change at a site level should probably be high (albeit substantially reversible). As a result, the year 1 effects on the site could be substantial, and the effect on AONB setting could be elevated to at least moderate.

- 7.4.33. At year 15, the addition of biodiversity enhancements on site and the proposed mitigation planting reaching maturity would potentially reduce the magnitude of effects from medium to low as the proposed development will be better integrated into the existing landscape. A combined low magnitude and medium sensitivity would then result in a slight adverse level of effect.
- 7.4.34. This is again questioned by the Council's Landscape Consultant who acknowledges that whilst the proposed landscaping would essentially reduce the visual influence of the development over time, as well as introducing potentially beneficial features such as hedgerows, it would not reduce the physical impact of the change in use.
- 7.4.35. In terms of landscape features the magnitude of change at year 1 and 15 will be negligible, and this combined with medium sensitivity, will result in slight adverse effects as the structural landscape on the site will be enhanced.
- 7.4.36. In term of lighting, there is no requirement to light the development overnight for security as all security cameras will be fitted with sensor-activated infra-red lighting. The lighting is only required for occasions where there may be a requirement for maintenance. Therefore, the magnitude of impacts will be negligible, and this combined with medium sensitivity will result in an imperceptible effect at year 1 and 15 of operation.
- 7.4.37. Tunstall Farmlands LCA
- 7.4.38. The LVA indicates high sensitivity for Tunstall Farmlands LCA. The LVA notes that a typical large-scale agricultural landscape is a feature of this LCA, with locally deteriorated tranquillity by pylons and power lines and the M2. The visibility across the LCA has been assessed as moderate. The Tunstall Farmlands LCA contains more varied landscape elements of higher sensitivity than the site itself.
- 7.4.39. The overall potential effects on the landscape character of the LCA is concluded as being moderate adverse at year 1 of operation due to the value being medium and high, medium susceptibility to proposed change and medium to high sensitivity combined with low magnitude of change.
- 7.4.40. The overall potential effects on the landscape character of the LCA is concluded as being slight adverse at year 15 of operation due to the value being medium and high, medium susceptibility to proposed change and medium to high sensitivity combined with low to negligible magnitude of change.
- 7.4.41. Kent Downs National Landscape
- 7.4.42. The Levelling-Up and Regeneration Act 2023, which came into force on 26 December 2023 amends the Countryside and Rights of Way Act, which is the primary legislation relating to National Landscapes. It places a duty on the Local Planning Authority (as a relevant authority) to ensure that their actions and decisions seek to conserve and enhance National Landscapes.

- 7.4.43. The key attributes of the setting were derived from the Kent Downs AONB Management Plan 2021 and Kent Downs Area of Outstanding Natural Beauty Setting Position Statement.
- 7.4.44. The proposed development is located outside of the National Landscape area. As such there would be no direct/physical impact on the designated area; the effects would be indirect, restricted to how the National Landscape is perceived from/in relation to its setting.
- 7.4.45. The LVA (without the additional viewpoints) concludes the overall potential effects on the landscape character of the National Landscape as being slight to moderate adverse at year 1 of operation and as slight to moderate adverse at year 15 of operation.
- 7.4.46. However, in views across the site from the north and from the PRoWs within it, there is the potential for the solar arrays to obstruct/intrude into views towards the (more elevated) landscape of the National Landscape, where gaps in tree cover (notably along the M2) permit.
- 7.4.47. In northward views from the National Landscape, the site contributes to a degree of perceived continuity between the designated area and its farmland setting beyond the motorway (both areas fall within the Tunstall Farmlands). The development therefore has the potential to interrupt this continuity.
- 7.4.48. In conclusion it is considered that the moderate adverse effects on the Kent Downs National Landscape designation may be understated.
- 7.4.49. Assessment from additional viewpoints were undertaken at the request of the National Landscape Unit. It is again considered that the impact may be underestimated and that more screening would be required along the southern boundary on land within the applicant's control.
- 7.4.50. Landscaping is proposed to the southern boundary which will also infill gaps to the existing vegetation on land within the applicant's control. Additional planting is also proposed in the form of mature or fast-growing planting to help reduce the effect of glint on motorway users, which in turn will assist in screening the solar farm from the National Landscape. The proposed landscaping is to be secured by condition.
- 7.4.51. Whilst the concern with regard to the screening along the southern boundary is acknowledged, this also needs to be considered against the presence of the M2 motorway and that the effect of the solar farm is reversible due to the temporary nature of the proposal.
- 7.4.52. The Council recognises it would not be practical, or reasonable, to completely screen every part of the proposed solar farm and therefore a degree of adverse harm will remain. However, it is considered the proposed planting to be sufficient to reduce the impact on the setting of the National Landscape to an acceptable level.
- 7.4.53. Subject to conditions relating to the landscape proposals and a requirement for the infrastructure on site to be of a colour sensitive to the location adjacent to the National Landscape, utilising the 'Guidance on the Selection and Use of Colour in the Kent

Downs', it is considered the landscape effects can be suitably mitigated, and that the proposal conserves the setting of the Kent Downs National Landscape on the whole. Where it doesn't, this primarily relates to some points of intervisibility from the National Landscape and by the inclusion of additional landscaping having an effect on the open character and the perception of continuity with the Tunstall Farmlands LCA as stated above.

7.4.54. Visual Effects

7.4.55. The visual effects of the proposal during the operational period have also been assessed.

Dwellings:

7.4.56. The effects on residential properties within 500m of the site may be summarized as follows:

- Potentially substantial effects at Y1, becoming moderate by Y15, are predicted for properties at Oad Street, Sutton Baron House and Vigo Lane/Wrens Farm; and
- No effects are predicted for properties at Hengist Field and Woodgate Farm/Bowl Reed.

7.4.57. Of residential properties within 500-1000m of the site, only those at Vigo Farm/Stiff Street/Stiff Street Farm/Manns Place/Chantry Farm are predicted to experience material (slight) effects.

Recreational Receptors:

7.4.58. The effects on each PRow have also been assessed. The views of recreational receptors are generally of high sensitivity. In summary the significance of the effect following mitigation planting was considered to be:

- Moderate Adverse along routes: ZR128, ZR141, ZR169 and ZR148
- Substantial Adverse along routes: ZR137, ZR138 and ZR134

7.4.59. With mitigation in place, the impact on receptors using the PRow network would be reduced. However, there are still areas where the effect on the receptor remains adverse and therefore significant and where openness contributes to the amenity of these PRows, this screening would remain harmful, effectively becoming permanent where hedgerows may be retained following decommissioning. The Decommissioning Plan will address this and should it be deemed necessary by relevant consultees to remove or reduce the height/thin certain hedgerows to allow for reversion back to the visual character of the area, this can be carried out.

Transport Receptors:

7.4.60. Views from the roads are restricted due to the presence of hedgerows along the road corridors. The proposed development will be most visible from Vigo Lane and Wrens Road. Although the proposed landscape buffer planting will screen the views of solar panels, the magnitude of visual impacts will be medium. However, the overall visual impacts will be slight adverse as the change will affect a small number of visual receptors of low sensitivity.

7.4.61. Mitigation

- 7.4.62. Mitigation measures are required to address any adverse effects of the proposed development. Mitigation is provided through screening to be provided predominantly by landscaping proposals and a Landscape Strategy has been provided.
- 7.4.63. Following concerns raised by the National Landscape Unit regarding the reliance on the existing highway verge vegetation along the M2 for screening views of the development, the Landscape Strategy has been revised during the course of the application. The Landscape Strategy was revised to include hedgerow planting to supplement the proposed tree planting along the southern site boundary to create a more intact additional screen.
- 7.4.64. The Landscape Strategy also provides for the majority of existing hedgerows and vegetation to be retained, with hedgerows gapped up and managed to grow to approximately 3m high to increase their screening function. Landscape buffer planting is proposed along the eastern, western and northern site boundaries, and along Wrens Road, Vigo Lane and a tall hedgerow along the PRoW that run through the site. A condition would be included with any forthcoming planning permission to secure the implementation of a Landscape Scheme.
- 7.4.65. The LVA also suggests that some elements of the proposed infrastructure including inverters can be painted in colours (e.g., dark green) which will help to integrate them into the surrounding landscape. As stated above a colour sensitive to the National Landscape will be sought through a conditioned.
- 7.4.66. It needs to be the size proposed in order to deliver its substantial energy benefits. It is acknowledged by the applicant and the Council that there will be some landscape harm – but this does not mean that the scheme should automatically be refused. The landscape harm needs to be weighed against the benefits of the scheme. This is set out in the relevant section below.
- 7.4.67. Summary of Landscape Impact
- 7.4.68. There would be an inevitable adverse change in the existing land cover of the site. Aside from the presence the overhead lines and pylons the proposal would reduce the existing sense of openness and cause some landscape harm – although this would be reversed on decommissioning. The PRoWs would be retained although some change would be brought about through the proposed planting in which some cases would alter the experience of the user by the removal of the open character that is currently experienced.
- 7.4.69. Overall, there would be a beneficial effect on landscape elements within the site, and the effect on openness would be reversed after 40 years.
- 7.4.70. The site itself is not a valued landscape in NPPF terms and that it is not designated for its landscape beauty. The Kent Downs National Landscape itself (beyond the site) would be unchanged with the proposed solar farm in place. However, there would be some adverse impact to the setting of the National Landscape which is likely to remain or at best drop to a moderate adverse effect despite the proposed mitigation.
- 7.4.71. That being said, presence of the M2 motorway, the existing power lines and pylons as detracting factors need to be taken into account along with the fact that the

proposal is temporary, albeit for 40 years, and the site would be restored (with the exception of the DNO substation) in accordance with a decommissioning plan which is to be conditioned.

7.5. Public Rights of Way

- 7.5.1. The site is crossed by a number of PRowS. Footpath ZR137 is aligned north east - south west and is located along the site access; Footpath ZR138 is aligned north-south between Oad Street and the southern site boundary and forms the boundary of two fields. It then connects with Vigo Lane to the east, running along the southern site boundary. Footpath ZR169 also forms the boundary between two fields and provides a connection between Wrens Road, and Primrose Lane to the east of the site.
- 7.5.2. There is also a bridleway, ZR134, which is aligned north-south through the site between Sutton Baron Road and the southern site boundary. It forms the boundary between two fields. It then connects to Wrens Road to the east along the southern site boundary.
- 7.5.3. It is proposed to retain all footpaths and bridleways that cross the site allowing continued access throughout the operation of the solar farm.
- 7.5.4. It is also proposed to manage the construction to minimise impacts on footpaths to allow continued public access.
- 7.5.5. The KCC Public Rights of Way has reviewed the application. Following initial concerns raised, the applicant prepared a response to the points with a plan showing the Proposed Construction Phase Site Access Arrangements Strategy.
- 7.5.6. One of the main concerns was around the use of the site access which crosses footpath ZR137 during the construction period. Clear signage is proposed for users of PRow routes affected and clear signage for construction traffic, along with a banksman which would be conditioned.
- 7.5.7. Another concern raised relates to the location of the construction compound adjacent to the footpath and the impact on users of the PRow in terms of the experience. It has been highlighted in the applicant's responses that the impact is temporary as it is only required for the construction period and that the compound requires a location near to the site access to deposit materials.
- 7.5.8. Concern has also been expressed with regard to the location of the substation by footpath ZR138, the CCTV and the lighting columns. The CCTV is required for security purposes and to provide adequate coverage of the site. It is not to be directed over PRowS. During operation of the solar farm, lighting is only proposed to be used if necessary during maintenance. A condition is proposed to control this.
- 7.5.9. The location of the substation has been given significant consideration. It was felt that in the proposed location it would be screened from the PRow by fencing and hedgerow planting. Fast-growing planting or temporary measures are proposed for the initial years of operation. Again, this would form part of a suite of conditions.

- 7.5.10. In relation to any adverse impact from noise, a noise assessment has been submitted as part of the application and the proposal has been reviewed by the Environmental Protection Officer who has raised no objection to the proposal in this regard.
- 7.5.11. Questions over the width of PRowWs have been raised. The PRowW has requested the PRowW routes to be a 10m corridor with 2m either side of a PRowW route or at least a minimum of 7m.
- 7.5.12. The applicant has confirmed that the PRowW routes meet, and in some cases exceed the minimum width requirement that the current landowners/tenants should avoid cultivating to keep the PRowW accessible. The increased width of the PRowW network would be improved along parts of ZR138 and ZR134 through the establishment of hedgerows to a width of 7m (12m wide with hedgerows either side managed to be 2.5m wide), which has been considered in response to such comments wanting to see a wider network.
- 7.5.13. The applicant has advised they are not in a position to offer wider networks than is proposed, as the expansion of PRowWs further would consume land for that is proposed to be occupied by solar panels and the further reduction would reduce the output of the solar farm.
- 7.5.14. It is considered that as the proposal provides a compromise and meets the minimum width suggested, it is acceptable.
- 7.5.15. The PRowW Officer considers that the additional planting and/or mesh fencing proposed to provide screening along the M2 motorway (set out below in the Glint section) gives weight to the request for wider PRowW routes stating that the user experience will be one of being channelled between the motorway fencing and solar panels resulting in a loss of amenity.
- 7.5.16. This point is taken onboard, in the consideration of this application (Landscape and Visual Impact section) and it is agreed that there will be a degree of loss of amenity for the users of this route. The effect on the PRowW network will be considered in the balance against the benefits of the proposal.
- 7.5.17. Having reviewed the current proposals in relation to PRowWs, the KCC PRowW Officer responses, it is considered that whilst there is degree of negative impact on the PRowW in terms of the experience of the user, such as the loss of feeling of openness and channelling to part of the PRowW network along the M2 motorway, the proposal is temporary, albeit for 40 years, and offers significant benefits which are considered in the planning balance as set out below.
- 7.5.18. It should be noted a request was made for a financial contribution as it was viewed that the proposal provides an opportunity to improve the PRowW network and develop new links and to provide safe alternatives to existing on-road routes. It is stated within the request that the public benefits would help compensate for any disruption caused by the construction and the negative effects on the PRowW network.
- 7.5.19. The applicant has not agreed to the contribution for improvement to the surrounding network of PRowWs as they are not directly affected by the proposal and a PRowW

Management Plan will form part of the Landscape Environmental Management Plan (LEMP).

- 7.5.20. 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
- 7.5.21. No figure has been provided with the request for contribution and as such it cannot be assessed as to whether it is reasonably related in scale. The reason behind the request for a contribution is given as the project providing an opportunity to improve the PRoW network and develop new links for connectivity across the network and that provide alternatives to existing on-road routes.
- 7.5.22. However, in consideration of all the tests, given the nature of the proposal, the development itself will not give rise to an increase in users and as stated above a PRoW Management Plan will form part of the LEMP which will address those PRoWs route directly affected. It is therefore agreed that the request for improvement of the surrounding network is not related to the development and is also not necessary to make in acceptable in planning terms.

7.6. Transport and Highways

- 7.6.1. 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.”*
- 7.6.2. 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.”*
- 7.6.3. Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.
- 7.6.4. The application is supported by a Transport Statement which has been reviewed by KCC Highways and National Highways. Further details were requested by KCC Highways, particularly regarding management and timing of deliveries and the passing points available within the internal access road.
- 7.6.5. KCC Highways noted that the anticipated 76 (two way) vehicle trips to be made daily during the construction phase (5 months) for on-site staff and HGV movements and that that the day-to-day traffic movements associated with the solar farm once construction is complete is likely to be infrequent trips for servicing.

- 7.6.6. KCC Highways is satisfied that the construction access is sufficient to accommodate an articulated vehicle to turn into and out of the site and now, following the submission of the requested further information, they are able to confirm that the service road leading to the proposed solar farm shows widening to allow HGV's to pass mitigating the need for stationary traffic on Oad Street should a vehicle be exiting the site at the same time as one arriving.
- 7.6.7. As noted by the vehicle trips, the main impact is during construction. The applicant has provided some details regarding the management of deliveries to ensure that these movements do not conflict with the network peak hours, however, further details regarding how this will be managed will need to be submitted in a Construction Management Plan. Oad Street is narrow in nature with little passing places, it may not be wide enough for HGVs to pass in opposing directions. Timing of deliveries and a strategy to manage this will need to be considered.
- 7.6.8. National Highways initially issued a holding objection expressing concern with regard to the collision analysis not covering the junction of Oad Street with the A249 and in relation to Glint and Glare (covered in the Glint section).
- 7.6.9. The Applicant submitted a Technical Note to address the comments raised by National Highways. In relation to collision analysis, the Technical Note provides data covering the period time as requested by National Highways. The improvements around the M2 junction 5 includes the improvement of the junction of Oad Street with the A249 by way of a roundabout arrangement which is considered to improve safety.
- 7.6.10. KCC Highways are of the view that providing a construction phase strategy is in place to manage deliveries, the development will not generate a severe impact on the highway network. Consideration will need to be had regarding routing to the development to ensure this is carried out via A249. A condition is recommended to secure a Construction Transport Management Plan to incorporate these details.
- 7.6.11. National Highways are also satisfied sufficient information has been provided to address the concern with regard to collision analysis.
- 7.6.12. Subject to the recommended conditions, the proposal would not result in a harmful impact on highway safety, nor would the residual cumulative impacts on the local road network would be severe. The proposal is considered acceptable in terms of the impact on the local highway and in accordance with Policy DM6 of the Local Plan and the NPPF.
- 7.6.13. The impact of glint on users of the strategic network is considered in the Glint section below.

7.7. Glint

- 7.7.1. A separate document has been submitted to show the potential effects from glint. Glint, glare and dazzle are often used interchangeably but are defined in the submitted report is as follows:

- Glint – Also known as a specular reflection is produced as a direct reflection of the sun on the surface of the solar panel. It occurs with the reflection of light from smooth surfaces such as glass, steel, and calm water.
- Glare – A scattered reflection of light. Glare is significantly less intense than glint and is produced from rougher surfaces such as concrete, tarmac, and vegetation.
- Dazzle - An effect caused by intense glint and glare, which can cause distraction, and if strong enough reduce the ability of the receptor (pilot or otherwise) to distinguish details and objects.

7.7.2. The submitted report focusses on assessing glint due to the intensity being much higher than glare.

7.7.3. The Glint Assessment primarily assessed the potential effects on roads, dwellings, national trails and PRowS but also included a high-level assessment of the effect on aviation and the cumulative effect.

Roads

7.7.4. The site is situated immediately to the north of the M2. A large proportion of the site is screened by existing foliage located on the verge of the motorway. However, the existing screening does have some gaps where there is some visibility to areas where panels would be located.

7.7.5. The applicant's analysis indicated a driver may witness yellow glint (yellow glint is medium intensity glint that has some potential to cause a temporary after image) which could cause a brief disruption to their view of the road.

7.7.6. Mitigation is proposed in the form of planting to be provided within the application site ownership boundary, adjacent to the highway verge to infill these gaps.

7.7.7. Following their review of the initial document, National Highways raised concerns regarding the impact from glint on users of the M2 motorway and sought to obtain the advice from a Specialist. Following a review of the application from their Specialist, National Highways requested further information in the form of more evidence to support the findings set out in the submitted Glint Assessment, to clarify inconsistencies of the route receptors on the software used and to provide clarification regarding the temporary screening.

7.7.8. In light of the concerns raised and following meetings between National Highways, the applicant team and the Case Officer, further information was submitted in the form of a Technical Note which set out details of the proposed screening, the result of the methodology check used for analysis and potential impact prior to mitigation.

7.7.9. Additional temporary measures are suggested to further mitigate concerns until the planting has sufficiently matured. The temporary measures proposed are the installation of a mesh fence to obscure and break up any potential glint from the panels with areas of fast-growing or mature planting. The dimensions of the screening are set out in the Technical Note and have been derived using a methodology set out in the Technical Note. It is recommended that a mix of fenced screening and fast-growing planting be used.

- 7.7.10. An assessment of the impact of glint was re-run using a different methodology as requested by National Highways. The Technical Note sets out the results of this. It also explains the difference between the two models used and the issues of the modelling requested to be used by National Highways. For example, that the model assumes a driver having a 360-degree field of vision, that there is no vegetation in place at all, thus providing absolutely no screening and that the sun is always shining.
- 7.7.11. Following on from the modelling, the potential impacts of the proposal prior to mitigation is also set out in the Technical Note. Again, it should also be noted that the results are based not only on there being no mitigation planting, but also the absence of any existing planting.
- 7.7.12. National Highways, along with their Specialist, have reviewed the Technical Note and are satisfied with the modelling results and impact set out and that the proposed mitigation in relation to glint is appropriate.
- 7.7.13. National Highways have removed their objection to the proposal subject to the imposition of a condition to ensure the implementation of the glint mitigation, for a Construction Environment Management Plan to be secured and for a Decommissioning Traffic Management Plan to be secured.

Residential

- 7.7.14. The assessment takes the worst-case scenario in terms of the potential for an effect on residential properties as it doesn't take account of existing screening features such as trees, hedgerows, buildings, intervening topography, and other obstacles which will reduce the dates, times, and durations of when glint is predicted to occur.
- 7.7.15. Nine properties have the potential to be impacted by glint. The glint that would potentially be experienced at five of these properties is low intensity (green) glint which doesn't have the potential to form an after image. The remaining four properties have the potential to experience some green glint and some medium intensity (yellow) glint, which can form a temporary after image.
- 7.7.16. Given that the potential for glint is likely to already be reduced by existing screening features on the ground and that mitigation is proposed in the form of further landscape screening which is to be secured by condition as part of an overall Landscape Scheme, it is considered there would be no adverse impact on the residents of the surrounding properties from glint.

National Trails and PRowS

- 7.7.17. The nearest National Trail to the site is the North Downs Way which lies approx. 6km from the site at its nearest point. At this distance, glint from the application site will not have an impact.
- 7.7.18. There are a number of PRowS within and in close proximity to the application site. These include footpaths and bridleways that cross the site and as well as some running adjacent to the site boundary.
- 7.7.19. The perimeter planting proposed around the arrays will provide effective screening for almost all of these PRowS and prevent direct visibility to glint producing solar panels. If effects of glint are visible, the effect will be similar to walking besides a

body of water with the sun glistening on it. In addition, the proposed solar panels have no moving parts that would potentially startle horses.

- 7.7.20. Glint is not expected to have a material impact on horse riders or other users of the PROWs who travel along these routes.

Aviation

- 7.7.21. The closest aerodrome to the site is Frinsted which is 5.34km south of the site. The other aerodromes identified within 15km of the site were Barhams Mill Farm Airstrip which is approx. 14.5km southwards; Farthing Corner and Rochester Airport which are 5.72km and 12.38km northwest respectively. No air traffic control towers are present for any of the aerodromes.

- 7.7.22. Glint effects were modelled for critical flight times (2-mile final approach paths) at each runway of the aerodromes. Of the flight paths analysed, none of the aerodromes were predicted to receive glint. Glint is therefore not expected to have a material impact on light aircraft at this airfield.

Cumulative Effects

- 7.7.23. There are several other sources of reflection in the vicinity of the proposed site so there is a potential for cumulative glint effects to be received by receptors surrounding the site. This proposed solar development was modelled and analysed in conjunction with the proposed fixed panels at Bobbing Solar Farm, Orchard Farm, and Iwade Solar Farm. There were no cumulative effects for any of the following receptors: local properties, national trails of PROW, railways, roads or aerial receptors.

Summary

- 7.7.24. Given the mitigation proposal, the development of the solar farm would not result in harm as a result of glint. Subject to conditions securing the mitigation measures, the proposal is considered to be in accordance with Policies ST1, CP4, DM6, DM14 and DM24 of the Local Plan and the 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.

- 7.8.2. Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions for the purpose of conserving biodiversity. Furthermore, the NPPF 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.'

- 7.8.3. 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".
- 7.8.4. 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.
- 7.8.5. The application is supported by a Preliminary Ecological Appraisal Report, Biodiversity Offsetting Assessment, Breeding Bird Survey and a Wintering Bird Survey has been submitted.
- 7.8.6. Without mitigation, the proposed development has the potential to impact ecology. The initial consultation response from KCC Ecology, requested further information be submitted in relation to mitigation strategies, additional survey work and the BNG Defra Metric. Following receipt of further information, KCC Ecology are satisfied that sufficient information has been submitted to adequately assess the impact on ecology.
- 7.8.7. Farmland Birds
- 7.8.8. The result of the Breeding Bird Survey indicates a total of 33 species were recorded within the site which included species of Principal Importance, and Red and Amber List species.
- 7.8.9. Skylark:
- 7.8.10. The proposals will result in coverage of most of the site with the solar array, with the exception of limited areas of species-rich grassland, hedgerow and woodland/tree planting at the boundaries. Relative to the existing open arable fields, grassland areas will be enclosed by the solar array and hedgerows/trees and are therefore unlikely to provide suitable nesting habitat for skylark, resulting in a net loss of territories. This species has been shown to feed and sing within solar arrays, but evidence of breeding has only been recorded on one occasion within field margin habitat.
- 7.8.11. Whilst there will be a net loss, it is acknowledged that the number of territories is relatively low, and that the proposed habitat creation has potential to increase the food resources for a range of breeding and wintering birds including skylark and linnet. Suggestions that the increased food supply will increase the number of skylark territories that adjacent fields can support requires further investigation, as does the possibility that skylark currently nesting within the site will adapt to nest within / adjacent to the solar array. The applicant has responded positively to a request to undertake long term monitoring to gain further evidence on this aspect. This will be secured by condition.
- 7.8.12. On this basis, KCC Ecology advise that, as compensation for the loss of habitat for breeding birds, a long-term breeding bird monitoring programme is implemented as part of a Landscape and Ecological Management Plan (LEMP). This will include periodic submission of monitoring reports to the local planning authority under a separate condition. As with the original surveys, fields adjacent to the development site will be included within monitoring surveys where access is available.

7.8.13. Linnet and Yellowhammer:

7.8.14. Mitigation is to be provided to ensure continued provision of arable seed resources within the site. For example, the provision of 20m strips of arable weed / crop planting within boundary areas. Proposals for the location, size and management of these areas should be included within the LEMP which should be secured by condition. Suitable nesting habitat for these species has already been proposed within the field margins.

7.8.15. Schedule 1 species:

7.8.16. A pair of peregrine falcons and Fieldfare were observed and recorded. It is therefore advised that a Biodiversity Method Statement (to inform the CEMP (Biodiversity)) be secured by condition and that it includes an updated site walkover during the breeding bird season and to outline mitigation measures should this species be recorded nesting within the site.

7.8.17. Wintering Birds

7.8.18. Surveys were undertaken which were designed to focus on identifying any qualifying species of the designated sites, and to identify whether the site qualified as functionally linked land (FLL) with regards wintering birds.

7.8.19. The report concludes that the application site is of at least Local value for wintering birds, predominantly by farmland passerine birds and gull species, and concludes “*no evidence of the regular presence, or presence of flocks of species associated with the coastal conservation sites was recorded, and hence no impacts to the coastal conservation sites will result from the development proposals*”.

7.8.20. KCC Ecology agree with this conclusion and no further information is required regarding wintering birds or functionally linked land.

7.8.21. Precautionary mitigation measures will need to be implemented and it is recommended that this be secured by the condition securing the submission of a Biodiversity Method Statement.

7.8.22. Badgers

7.8.23. Two active badger setts have been identified on the site and suitable mitigation has been outlined. Given that there is a possibility of works being required within the buffer zone and the potential need for temporary sett closure it is advised that a Badger Mitigation Strategy is submitted with details of how any need for sett closure, licensing and associated mitigation will be achieved. This information should be submitted for approval as part of the Biodiversity Method Statement condition.

7.8.24. Hazel Dormouse

7.8.25. Five sections of hedgerow totalling approx. 40m will be removed. The Dormouse Conservation Handbook details that a maximum of 100m of hedgerow can be removed using displacement/persuasion, and as such KCC Ecology agree that this work can potentially be completed under a non-licensed method statement, to be secured by condition.

- 7.8.26. It is agreed that precautionary mitigation measures will need to be implemented in relation to hazel dormouse and that this should be secured as part of the Biodiversity Method Statement condition.
- 7.8.27. Biodiversity Net Gain
- 7.8.28. Defra Metric calculations and a Biodiversity Offsetting Assessment has been provided.
- 7.8.29. The proposal is expected to result in a net habitat unit change of 236.60 habitat units, which represents a 190.54% net gain, and a net linear unit change of 50.53 hedgerow units, or 299.32% net gain.
- 7.8.30. The BNG assessment demonstrates the potential to achieve a significant positive outcome for habitats. It is expected that this habitat creation and enhancement will be achievable given the proposed use as a solar farm.
- 7.8.31. As part of the management review detailed within the LEMP, BNG monitoring should also be secured by condition, to monitor actual net gain resulting from the development.
- 7.8.32. Subject to the suggested conditions, the proposal is in accordance with Policies CP7 and DM28 of the Local Plan and the NPPF.

7.9. Heritage

- 7.9.1. 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.
- 7.9.2. 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.
- 7.9.3. 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 at Policies CP8 and DM32.
- 7.9.4. There are no listed buildings within the application site, nor is the site within a conservation area. However, there are both listed buildings and conservation areas nearby as described above.
- 7.9.5. A detailed Archaeological and Heritage Statement has been provided in support of the application. The Heritage Statement concludes that in relation to the built

heritage, the potential adverse impacts are restricted to change within the setting of the Grade II listed Sutton Baron House and Sutton Baron Hall, located to the north of the site. This would be limited to changes to the wider setting of the asset as a result of changing the use of historically associated agricultural land. The assessment has, however, concluded that the potential adverse impact to this asset would equate to 'less than substantial harm' to its significance.

- 7.9.6. The NPPF makes it clear that the setting of a heritage asset is the surroundings in which a heritage asset 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 the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
- 7.9.7. The Council's Heritage Officer has reviewed the Archaeological and Heritage Statement and agrees with the conclusion.
- 7.9.8. The Grade II listed Sutton Baron House and Sutton Baron Hall are part of group of historically and functionally associated buildings. Sutton Baron House and Sutton Baron Hall are the principal buildings of the group.
- 7.9.9. The immediate setting of the House comprises its ancillary, associated buildings. This immediate setting contributes to the assets significance. The wider setting also makes some contribution to the significance of the assets, this is particularly associated with the land to the south of the asset which is historically owned and farmed by Sutton Baron.
- 7.9.10. The Heritage Officer raises no objection to the proposal subject to effective landscape mitigation which is to be secured by condition. Appropriate management of the landscape mitigation is also required and can be secured by condition.
- 7.9.11. On this basis and in consideration of the NPPF, harm to significance should be balanced with due regard to the public benefits of the proposals, the need for renewable energy sources and supply and the ability of the site to contribute towards this delivery.
- 7.9.12. The public benefits offered by the proposed scheme include the following:
- Creating employment including construction jobs, as well as solar farm maintenance jobs.
 - Paragraph 85 of the NPPF advises that **significant weight** should be placed on the benefit a scheme offers in supporting economic growth and productivity.
 - Helping to fight against climate change by decreasing the proportion of grid energy that is produced from fossil fuels, potentially offsetting the average annual UK electricity consumption of approximately 11,550 houses per annum.
 - Paragraphs 157 and 163 of the NPPF advises the planning system should support renewable and low carbon energy and associated infrastructure. **Substantial weight** is attached.
 - Renewable energy using modern technology (which use less area to produce higher amounts of electricity).

- Paragraphs 157 and 163 of the NPPF advises the planning system should support renewable and low carbon energy and associated infrastructure. **Substantial weight** is attached.
 - Energy Security – Will contribute towards an independent, secure energy supply in the UK (which is particularly necessary in the current geopolitical climate).
 - Paragraphs 157 and 163 of the NPPF advises the planning system should support renewable and low carbon energy and associated infrastructure. **Substantial weight** is attached.
 - Diversification of Farm Business – The proposal would allow for effective utilisation of agricultural land and ensure the landowner has a secure supply of income to reinvest in their agricultural business.
 - Paragraph 89 of the NPPF supports sustainable growth and expansion of all types of business in rural areas as well as the development and diversification of agricultural and other land-based rural businesses. **Moderate weight is attached.**
 - The resting of agricultural land which will potentially improve soil health to the benefit of future cultivation activities.
 - Paragraph 180 of the NPPF recognises the benefits of best and most versatile land (BMV). The site does not comprise BMV. Leaving it fallow may improve the soil quality. **Limited weight is attached.**
 - Biodiversity Net Gain - Provision of biodiversity net gains within the site of 190.54% for habitats and 299.32% for hedgerow units.
 - Paragraphs 180 and 185 support the provision of net gains for biodiversity. Given the level of gain proposed, **significant weight** is attached.
 - Landscape Enhancements – The planting of new native hedgerows and trees, alongside gapping up existing hedgerows. These improvements will endure beyond the operational phase of the solar farm.
 - The proposed landscape improvements are primarily provided to mitigate the appearance of the solar farm. **Limited weight** is attached.
- 7.9.13. In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990 having placed great weight and importance on the fact that less than substantial harm would potentially be caused to the setting of Grade II listed to Sutton Baron House and Sutton Baron Hall. However, in this case the benefits are considerable and clearly outweigh the harm. Officers are of the view that the proposals comply with Local Plan Policies CP8 and DM32 and the provisions of the NPPF.

7.10. Archaeology

- 7.10.1. 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.
- 7.10.2. 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.

- 7.10.3. An Archaeological and Heritage Statement (AHS) has been submitted with the application which has been reviewed by KCC Archaeology who advises that the archaeological potential for remains of prehistoric and Roman date within the site is high and the geophysical survey suggests particular concentrations may be identified though individual features and interpretation remains tentative.
- 7.10.4. The AHS sets out the potential development impacts based on general assumptions on potential significance. KCC Archaeology have performed their own analysis of the development impacts and conclude that overall the ground disturbance from the development proposal is not substantial and can be readily adjusted to reduce impact where necessary.
- 7.10.5. KCC Archaeology are satisfied that the potential impacts of the scheme can be appropriately addressed through further assessment, evaluation and design that can be secured through a condition.
- 7.10.6. A condition for a staged programme of archaeological assessment, evaluation and mitigation is included is recommend for any forthcoming planning permission and with such a condition in place, the proposal is in accordance with Policy DM34 of the Local Plan and the NPPF.

7.11. Flood Risk, Drainage and Surface Water

- 7.11.1. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in Policy DM21 of the Local Plan.
- 7.11.2. The site is located within Zone 2 Groundwater Source Protection Zone, therefore the Environment Agency (EA) has been consulted. The EA confirm that the development can be granted planning permission subject to conditions. The conditions required by the EA relate to infiltration and are included below.
- 7.11.3. KCC Flood and Water Management have reviewed the submitted Flood Risk Assessment and raise no objection. KCC state that they would expect the swales to be built to accommodate the worst-case scenario as presented within the Surface Water Storage Calculations (Appendix 2) which would result in 35m³ of storage provided for substation areas and 228 m³ for the access track. However, it is noted that this would be likely to change following infiltration testing and therefore a condition is suggested to confirm final arrangements.
- 7.11.4. KCC Flood and Water Management also request a condition to ensure ground investigations are carried out with soakage tests compliant with BRE 365, notably the requirement to fill the test pit three times and should be at the location/depth of proposed infiltration features. Detailed design required by condition should utilise a modified infiltrate rate and demonstrate appropriate half drain times.
- 7.11.5. It is also expected that the drainage system be modelled using FeH 2013 rainfall data in any appropriate modelling or simulation software. Where FeH data is not available,

26.25mm should be manually input for the M5-60 value, as per the requirements of our latest drainage and planning policy statement (November 2019). This will also be captured by the conditions.

- 7.11.6. Subject to the recommended conditions being attached to any forthcoming planning permission, the proposal is considered acceptable and in accordance with Policy DM21 and the NPPF.

7.12. Contamination

- 7.12.1. 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.

- 7.12.2. A Phase 1 Land Contamination Assessment has been submitted with the application which has been reviewed by the Environmental Protection (EP) Officer who states that the Assessment is satisfactory and concludes a low risk.

- 7.12.3. As a precautionary approach, the EP Officer recommends radon protection measures are provided which should form part of any structure. This is to be secured by condition. Any previously unidentified contamination found during construction can also be dealt with by condition.

- 7.12.4. Subject to the imposition of the suggested condition, the proposal is in accordance with the NPPF.

7.13. Air Quality

- 7.13.1. 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.

- 7.13.2. The NPPF and Policy DM6 of the Local Plan seek to ensure that the effects of air pollution and the potential sensitivity of the area to its effects are taken into account in planning decisions.

- 7.13.3. The application has been reviewed by the Council's Environmental Protection Officers in relation to any potential impact in relation to air quality. No objection is raised in this regard.

- 7.13.4. The proposal is considered to be in accordance with Policy DM6 of the Local Plan and the NPPF.

7.14. Living Conditions

- 7.14.1. The NPPF and Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.

- 7.14.2. The visual impact and the impact of glint has been considered above. Given the distance of residential properties from the compounds on the site where small structures/buildings would be located, it is considered there would be no harm to living conditions in terms of loss of light, outlook and overshadowing. This section therefore relates to the potential effect on living conditions from noise, dust and vibration.
- 7.14.3. The application is supported by a Noise Assessment. The Council's Environmental Protection Officer has reviewed the application in terms of lighting, dust and noise. Further information was requested with regard to the dust management proposals and reporting of complaints as well a request for a plan showing location of compound and equipment.
- 7.14.4. Following receipt of the requested plan and an explanation that a detailed Construction Environmental Management Plan (CEMP) to be secured by condition will cover dust management and the reporting of complaints and, the EP Officer raises no objection.
- 7.14.5. With the inclusion of the recommended conditions requiring the submission of a detailed CEMP covering dust management, construction hours and the reporting of complaints; and details of lighting, the proposal would not result in any adverse impact to nearby residents and the development is in accordance with Policy DM14 of the Local Plan and the NPPF.

7.15. Designing Out Crime

- 7.15.1. The proposed layout includes a gated access point and fencing along all boundaries at a height of 1.9m. Fencing will comprise wire deer control fencing with woodland fence posts. The fencing will include mammal gates to allow for movement of ecology through the site. CCTV and infrared illuminators will be fixed onto a galvanised steel pole at a total height of 3m at intervals to ensure effective coverage. All cameras would be inward facing towards the site and equipment to ensure the security of the site without intruding on any private views.
- 7.15.2. Other than the lighting towers within the substation tower, which would only be used occasionally if required during maintenance no other operational lighting is proposed. The use of lighting can be controlled by condition.
- 7.15.3. Subject to the imposition of such a condition, the proposal is in accordance with Policy DM14 of the Local Plan and the NPPF.

7.16. Decommissioning

- 7.16.1. The development would have a lifespan of 40 years. At the end of the useful life of the facility, it will be decommissioned, and all the associated equipment will be removed and recycled where possible. The land can then be quickly reverted to agricultural use.
- 7.16.2. A decommissioning plan will be required. An Outline Decommissioning Plan has been submitted with the application.

7.16.3. A detailed Decommissioning Plan will be secured by condition.

7.17. Planning Balance – Benefits and Harm

7.17.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

7.17.2. The installation of large-scale solar farms can have a negative impact on the rural environment. As described in the appraisal above, there are some conflicts with Local Plan policy in terms of the significant effects of the development on the Kent Downs National Landscape and the local landscape, the Tunstall Farmlands LCA.

7.17.3. However, the visual impact of a well-planned and well screened solar farm can be properly addressed within the landscape if planned sensitively. There are a number of material considerations in this case, several of which should be given significant weight, and which when considered cumulatively are likely to indicate that the benefits of the proposal significantly and demonstrably outweigh harm and that permission should be granted.

7.17.4. These benefits need to be weighed against the impacts.

7.17.5. Benefits

7.17.6. The applicant has advised that it is estimated that the proposed development would generate approximately 40MW of renewable energy, which could provide enough clean renewable energy to meet the equivalent needs of approximately 11,550 homes. It is also estimated that the proposed development would save approx. 8,152 tonnes of CO2 over its 40-year operational period. In accordance with paragraphs 157 and 163 of the NPPF, Local Plan policies and recent appeal decisions, **substantial weight** is attached.

7.17.7. Renewable energy using modern technology which use less area to produce higher amounts of electricity. In accordance with paragraphs 157 and 163 of the NPPF and Local Plan policies, **substantial weight** is attached.

7.17.8. Energy Security – Will contribute towards an independent, secure energy supply in the UK (which is particularly necessary in the current geopolitical climate). In accordance with paragraphs 157 and 163 of the NPPF and Local Plan policies, **substantial weight** is attached.

7.17.9. Biodiversity Net Gains within the site would be 190.54% for habitats and 299.32% for hedgerow unit., In accordance with the NPPF, Local Plan policies and recent appeal decisions, **significant weight** is attached.

7.17.10. The creation of employment including construction jobs as well as solar farm maintenance jobs. Paragraph 85 of the NPPF advises that **significant weight** should be placed on the benefit a scheme offers in supporting economic growth and productivity.

- 7.17.11. Diversification of Farm Business – The proposal would allow for more effective utilisation of agricultural land and ensure the landowner has a secure supply of income to reinvest in their agricultural business. In accordance with recent appeal decisions, **moderate weight** is attached.
- 7.17.12. The resting of agricultural land which will potentially improve soil health to the benefit of future cultivation activities. Paragraph 180 of the NPPF recognises the benefits of best and most versatile land (BMV). Leaving it fallow may improve the soil quality. **Limited weight** is attached.
- 7.17.13. Landscape Enhancements – The planting of new native hedgerows and trees, alongside gapping up existing hedgerows. These improvements will endure beyond the operational phase of the solar farm. The proposed landscape improvements are primarily to provide mitigation for the solar farm. **Limited weight** is attached.
- 7.17.14. Harm
- 7.17.15. In accordance with recent appeal decisions, the temporary loss of BMV from productive arable farming is of **limited weight**.
- 7.17.16. The adverse impact on landscape character and appearance, particularly in terms of the setting of the Kent Downs National Landscape is significant, perhaps substantial when viewed at certain places within the National Landscape itself. However, this would predominantly be limited as mitigation planting would reduce the impact over time to more acceptable levels, moderate at best as some adverse impacts may remain throughout the operational phase. Given the status of the designation **significant weight** is attached.
- 7.17.17. The visual impact on receptors of the PRoW network is reduced through signage and construction management during the construction phase which is also temporary for a period of approx. 5 months. The mitigation proposals reduce the effect on users of the PRoW during operation phase, but some adverse effects remain, such as loss of openness and therefore **moderate weight** is attached.
- 7.17.18. The moderate adverse impact on dwellings will also be addressed through landscape screening which forms part of the mitigation proposals, as such **limited weight** is attached.
- 7.17.19. The potential for glint upon the users of the M2 motorway is limited and further reduced by the mitigation proposed. **Limited weight** is attached.
- 7.17.20. The impact on protected species on site is addressed through mitigation proposals and therefore **limited weight** is attached.

7.18. Conclusion

- 7.18.1. In considering the application, account has been taken of the environmental information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

- 7.18.2. In addition to the benefits and harm set out above, the proposal would not result in harm to the local highway, even during the construction phase given the limited number of vehicular movements; it would result in less than substantial harm in terms of any potential impact on listed buildings but the benefits are considered to outweigh any harm as set out above; the proposal would not result in increased flooding.
- 7.18.3. Both national and development plan policy recognise that large scale solar farms may result in some landscape and visual impact harm. However, both adopt a positive approach indicating that development can be approved where the harm is outweighed by the benefits. This is a matter of planning judgement.
- 7.18.4. In my judgement the impacts of the proposed development can be made acceptable through a combination of topography, existing and proposed screening and landscape and ecological mitigation. The adverse effect on landscape character and visual impact would be limited and localised, even around the Kent Downs National Landscape.
- 7.18.5. In these circumstances the substantial weight attached to the provision of renewable energy on its own would be sufficient to outweigh the limited adverse impacts identified. The other benefits identified add to the balance of positive matters in this case.
- 7.18.6. As the existing and proposed planting matures, any adverse effects, would be progressively mitigated and once decommissioned the scheme would leave an enhanced landscape consistent with the objectives of development plan policy. In these circumstances, whilst there would be some localised harm to landscape character and some visual harm in conflict with some of the relevant development plan policies, the imperative to tackle climate change, as recognised in legislation and energy policy, and the very significant benefits of the scheme clearly and decisively outweigh the limited harm. As such the proposal would accord with Local Plan Policies ST1, DM14 and DM24.

CONDITIONS

Time Limit

1. The development hereby permitted shall be commenced before the expiration of five years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town & Country Planning Act 1990 (as amended).

Drawings

2. The development hereby permitted shall be carried out in accordance with the approved plans listed below.

Drawing Numbers

NT16093/001 Rev A – Site Location Plan
NT16093-003 Rev P01 – Proposed Site Plan

NT16093-502 Rev P01 – Location Plan
NT16093-701 Rev B – Proposed Site Access Arrangements
NT16093-LVA 116 Rev B – Landscape Strategy Plan
NT16093-001 Rev A – Screening Plan
NT16093-126 – Temporary Screening Extent
S3843-8312-0002 Rev R1.0 – Typical Fencing Detail
S3843-8312-0003 Rev R1.0 – Access Track Detail
S3843-8312-0004 Rev R1.0 – Cable Trench Detail
S3843-8312-0005 Rev R1.0 – Client Substation Elevations
S3843-8312-0006 Rev R3.0 – PV Panels and Elevations
S3843-8312-0007 Rev R2.0 – Storage Cabin Elevations
S3843-8312-0008 Rev R5.0 – CCTV Layout
S3843-8312-0011 Rev R4.0 – 132kV – Substation Layout

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

Temporary Permission

3. The planning permission hereby granted shall be for a temporary period only, to expire 40 years and 6 months after the first export date of the development except for the substation and its ancillary infrastructure, which will remain on the site in perpetuity. Written confirmation of the first export date shall be provided to the Local Planning Authority within 14 days after the event.

Reason: In the interests of the rural character and appearance of the area in accordance with the National Planning Policy Framework, to ensure that the 40-year period is complied with.

Decommissioning

4. Within 6 months of the cessation of the export of electrical power from the site, or within a period of 39 years and 6 months following the first export date, a Scheme for the Decommissioning of the solar farm (with the exception of the substation and its ancillary infrastructure which will be retained), and how the land is to be restored, to include a programme for the completion of the decommissioning and restoration works, shall be submitted to and approved in writing by the Local Planning Authority. The solar farm shall be dismantled and removed from the site and the land restored in accordance with the approved scheme and timescales. The scheme shall also include the management and timing of any works and a Traffic Management Plan to address likely traffic impact issues during the decommissioning period, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats, and details of site restoration measures.

Reason: In the interests of the rural character and appearance of the area and to ensure no adverse impact on the local or strategic road network in accordance with the National Planning Policy Framework.

Pre-commencement Conditions

Archaeology

5. A) No development shall take place until the applicant (or their agents or successors in title) have secured 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: Required prior to commencement to ensure that features of archaeological interest are properly examined and recorded. The objectives and purposes of this condition are such that it is required to be complied with before commencement in accordance with the National Planning Policy Framework.

CTMP

6. No development shall take place (including any ground works, site or vegetation clearance) until a Construction Transport Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include the following:

- a) Routing of construction and delivery vehicles to / from site
- b) Parking and turning areas for construction and delivery vehicles and site personnel
- c) Timing of deliveries
- d) Provision of wheel washing facilities
- e) Temporary traffic management / signage
 - Provision of measures to prevent the discharge of surface water onto the highway.
 - Use of a bound surface for the first 5 metres of the access from the edge of the highway.
 - Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.

- Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 0.6metres above carriageway level within the splays, prior to the use of the site commencing.
- (f) Details of safety measures in respect of interaction with Public Rights of Way (PRoW).
- Signage
 - Details of the approach to repair or reinstatement of any PRoW should this be directly affected.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter for the duration of the construction phase.

Reason: Required prior to commencement of development to ensure no adverse impacts on the local and strategic highway network during construction in accordance with Policies DM6 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

Construction Management Plan (CMS)

7. No development shall take place (including any ground works, site or vegetation clearance) until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The CMS shall include the following:
- Construction hours
 - Reporting of complaints
 - Temporary lighting
 - Dust management

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 thereafter be carried out in accordance with the approved CMS.

Reason: Required prior to commencement of development to ensure no adverse impacts on the residential amenity during construction in accordance with Policy DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

Biodiversity Method Statement

8. No development shall take place (including any ground works, site or vegetation clearance) until a Biodiversity Method Statement which details all precautionary mitigation methods to be implemented for the protection of protected and priority species, including, potential bat tree roosts, badger, hazel dormouse, reptiles, badger, breeding birds (including ground-nesting species) and wintering birds has been submitted to and approved in writing by the Local Planning Authority. The approved Biodiversity Method Statement will inform the Construction Environment Management (Biodiversity) Plan to be submitted under condition 9 and will be based on the information within the Preliminary Ecological Appraisal, Wardell-Armstrong, April 2023, Breeding and Wintering Bird Surveys, Wardell-Armstrong April/June

2023, and the Hedgerow Assessment for Dormouse, Wardell-Armstrong, May 2023. The Biodiversity Method Statement shall include the following:

- A schedule detailing seasonal timing for precautionary works and surveys.
- An update site walk-over within 3 months of commencement to: confirm that the condition/management of the onsite habitats is consistent with that recorded during the ecological assessment, such that the potential for protected species to occur has not changed.
- identify any additional badger setts. Should new setts be identified during the pre-works walk over and/or monitoring during the construction period, all required surveys and mitigation/licensing will be implemented prior to further works being undertaken in the vicinity of the sett/s.
- A Non-Licensed Method Statement for hazel dormouse, to include an update nut search survey during the period mid-August - December. If dormouse are confirmed prior to or during clearance, all mitigation and licensing will be approved by Natural England prior to the relevant works being undertaken.
- Protection measures to avoid lighting impacts and damage of the Root Protection Area of tree T1 with moderate suitability features for roosting bats.
- Preliminary assessment followed by close-inspection, presence/likely absence surveys and mitigation (as required) of any trees on the fence-line which require removal or pruning for access purposes. Where roosting bats are confirmed, all mitigation and licensing will be approved by Natural England prior to the relevant tree works being undertaken.
- Precautionary methods for reptiles during vegetation clearance.
- Precautionary methods to avoid capture of animals within open trenches and use of temporarily stored materials as refugia.
- Precautionary measures for badger and their setts.
- Procedure to be followed should a protected species be found within the construction area.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter for the duration of the construction phase.

Reason: Required prior to commencement of development to protect habitats and species identified in the ecological surveys from adverse impacts during construction in accordance with Policies CP7 and DM28 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

CEMP (Biodiversity)

9. No development shall take place (including any ground works, site or vegetation clearance) until a Construction Environment Management Plan for Biodiversity (CEMP (Biodiversity)) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
 - a) Purpose and objectives for the proposed works;
 - b) Reference to the Biodiversity Method Statement submitted and approved under condition 8;
 - c) The identification of biodiversity protection zones and the use of protective fences, exclusion barriers and warning signs;
 - d) Detailed design(s) and/or working method(s) necessary to achieve stated objectives;
 - e) Sensitive lighting proposal with reference to the Bat conservation Trust's 'Guidance Note 8: Bats and Artificial Lighting 08/23';

- f) Extent and location of proposed works shown on appropriate scale maps and plans for all relevant species and habitats;
- g) Reference to any environmental permits required and any relevant mitigation measures;
- h) Reference to the arboricultural method statement to protect retained trees and hedgerows;
- i) Timetable for implementation, demonstrating that mitigation works are aligned with the proposed phasing of construction;
- i) Persons responsible for implementing the mitigation works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;
- j) Initial aftercare and reference to a long-term maintenance plan (where relevant);
- k) Disposal of any wastes for implementing work.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter for the duration of the construction phase.

Reason: Required prior to commencement of development to protect habitats and species identified in the ecological surveys from adverse impacts during construction in accordance with Policies CP7 and DM28 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

LEMP

10. No development shall take place (including any ground works, site or vegetation clearance) until a Landscape and Ecological Management (and Monitoring) Plan (LEMP) has been submitted to and be approved in writing by the Local Planning Authority. The content of the LEMP will be based on the information submitted within the Biodiversity Offsetting Assessment, Wardell-Armstrong. The Plan will include the following:
 - Description and evaluation of features to be managed.
 - Constraints on site that might influence management.
 - Aims and objectives of management, in alignment with the Biodiversity Net Gain habitat and condition targets.
 - Details of additional biodiversity enhancements to be provided for priority and red/amber list bird species, bats, hazel dormouse, reptiles and invertebrates.
 - Measures to be implemented to ensure habitat connectivity for protected and priority species (such as badger gates).
 - Appropriate management prescriptions for achieving aims and objectives (including detailed grazing proposals where relevant).
 - Information regarding remedial measures.
 - Precautionary measures for protected species to be followed during operation (E.g. during replacement of damages panels or fencing).
 - Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period, for the 40-year duration of the development).
 - Details of the body or organisation responsible for implementation of the plan.
 - Details of a long-term monitoring program for all habitats (in accordance with the BNG targets) and for breeding birds. The methodology for breeding bird surveys will align with that of the original surveys as documented within the Breeding Bird Survey, Wardell-Armstrong, April 2023 to enable meaningful comparison with the baseline. Locations will be detailed for fixed point photographs to evidence habitat creation/enhancement. A timetable for monitoring surveys will be included. Habitat/BNG and species monitoring including breeding bird surveys will be

undertaken in years 3, 5, 10 and 15. Copies of all monitoring reports, including details of any proposed remedial measures and a timetable for their implementation, shall be submitted to and approved in writing by the Local Planning Authority.

- The LEMP will 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 details of the management body(ies) responsible for its delivery.

The LEMP shall thereafter be implemented in accordance with the approved details.

Reason: Required prior to commencement of development to safeguard biodiversity and prevent adverse impacts during and post construction in accordance with Policies DM24 and DM28 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

Glint and Glare - Temporary Screening

11. No development shall take place (including any ground works, site or vegetation clearance) until the temporary screening areas as per drawing reference NT16093-126 'Temporary Screening Extent' and supporting document '23_502210_FULL-Agent_Response_to_National_Highways-6187272' have been fully installed at the designated sections of the site boundary. The temporary screening shall comprise a mesh fence installed to a minimum height of 7.5m. Once the permanent vegetation screening adjacent to the fence reaches a height of 7.5 metres an assessment which determines whether the vegetation would prevent any glint and glare from the solar farm from affecting users of the M2 motorway should be submitted to and approved in writing by the Local Planning Authority and National Highways. If the results of the assessment find that the vegetation would prevent glint and glare onto the M2 motorway, then the temporary fencing should be removed. Alternatively, if the results find that there would be glint and glare, the assessment must include a timeframe for a further reassessment. The temporary fencing should remain in place until an assessment demonstrates that it is no longer required and then it should be removed.

Reason: Required prior to commencement of development to ensure adequate protection and mitigation for users of the strategic road network and satisfy the reasonable requirements of road safety in accordance with Policy DM6 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

Landscaping

12. No development shall take place (including any ground works, site or vegetation clearance) until a scheme for hard and soft landscaping of the site in accordance with drawing number NT16093-LVA 116 Rev B – Landscape Strategy Plan (incorporating existing flora and using native species) and including locations adjacent to the M2, A249 and PRow network and a timetable for implementation has been submitted to and approved by the Local Planning Authority. Hard landscaping details shall include existing and proposed finished ground levels; vehicle and pedestrian access and circulation areas; means of enclosure and all paving and external hard surfacing. Soft landscape works shall include details of planting plans, written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

The hard and soft landscaping of the site shall be implemented in accordance with the approved details and shall be maintained and managed for the lifetime of the development hereby permitted.

Any trees or plants which within a period of ten 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: To ensure the proposed landscaping and biodiversity enhancements on-site are secured in accordance with Policies DM14 and DM28 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

SUDs

13. No development shall take place (including any ground works, site or vegetation clearance) 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 demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

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

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

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding in accordance with Policy DM21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017. 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.

Prior to First Export

Materials

14. Prior to their erection on site details of the proposed materials and finish including colour of all solar panels, frames, ancillary buildings, equipment, and enclosures shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and be maintained as such for the lifetime of the development hereby permitted.

Reason: To assimilate the apparatus into its surroundings, in the interests of amenity in accordance with Policies DM14 and DM24 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

Radon Protection Measures

15. Prior to the first export of or storage of energy from the site details of radon protection measures to be incorporated into the infrastructure on site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details which shall be maintained for the duration of the development.

Reason: To ensure that the development does not present any adverse risk from radon in accordance with Policy DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

SUDs Verification Report

16. Prior to the first export of or storage of energy from the site a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, shall be submitted to and approved in writing 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 Policy DM21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

Infiltration

17. No drainage systems infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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 water pollution caused by mobilised contaminants in line with the National Planning Policy Framework.

Unexpected Contamination

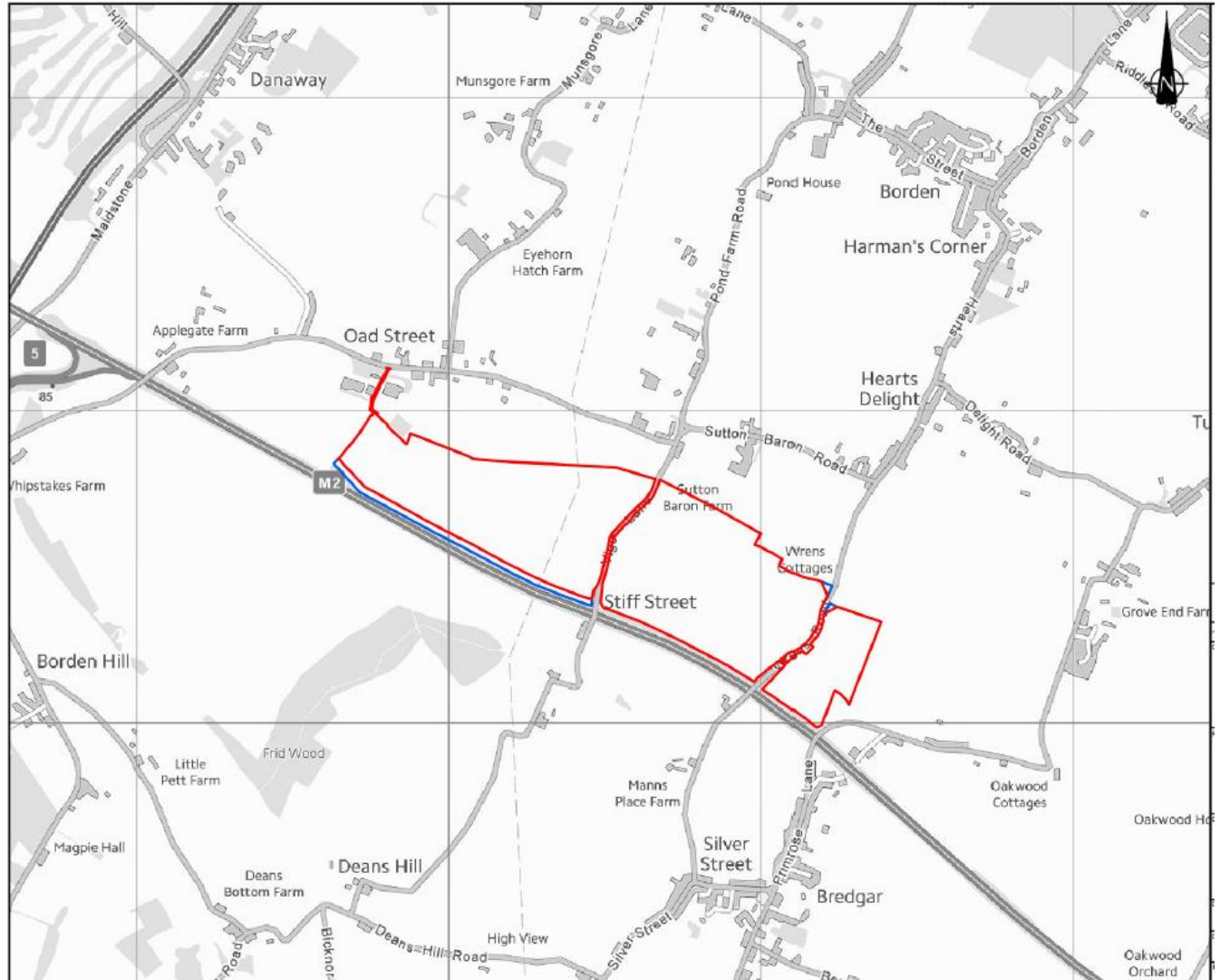
18. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented in accordance with the approved details.

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 water pollution from previously unidentified contamination sources at the development site in line with paragraph 174 of the National Planning Policy Framework.

External Lighting

19. No external lighting shall be used at the site unless for a temporary period. Should lighting be required, a Lighting Plan detailing the timeframe for which the lighting is required and how any impacts on areas likely to be used by breeding and wintering birds and foraging/roosting bats will be avoided shall be submitted to and approved in writing by the Local Planning Authority. The temporary lighting shall be implemented in accordance with the approved details.

Reason: In the interests of minimising the landscape and ecological impact of the development and the amenity of neighbouring residents in accordance with Policies DM14 and DM24 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.



Site
Site Boundary
Land under the control of the Applicant

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2.4 REFERENCE NO - 24/501424/FULL		
PROPOSAL Increase roof height to convert loft to extend existing flat 3, with insertion of rooflights, solar panels and flood refuge platform.		
SITE LOCATION Flat 3 231-235 High Street Sheerness Kent ME12 1UR		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Householder		
REASON FOR REFERRAL TO COMMITTEE Sheerness Town Council object to the application.		
Case Officer Megan Harris		
WARD Sheerness	PARISH/TOWN Sheerness	COUNCIL Sheerness
		APPLICANT Twin Property Group AGENT Woodstock Associates
DATE REGISTERED 04/04/24		TARGET DATE 30/05/24
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted Flood Risk Assessment dated July 2023 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=SBAZPGTYIWK00		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site is a detached part two storey / part single storey building located within the built up area boundary of Sheerness. It is located on a corner plot, at the junction between High Street and Vincent Gardens. The single storey element is comprised of a large single storey extension at the rear of the building, and hardstanding is located to the rear of this which provides off-road parking.
- 1.2 Three two-bed flats are located within the building, two on the ground floor and one on the first floor. The flat on the first floor is the subject of this application.

- 1.3 The surrounding area is characterised by mainly residential uses, with a pub located on the opposite side of the High Street. There is a mixture of dwelling types in the area, including flats contained within a three storey building to the north of the site, and two storey terraces to the south, east and west. The site lies within Flood Zone 3 and the town centre boundary. A Public Right of Way runs along the rear boundary of the site.

2. PLANNING HISTORY

- 2.1 **23/505457/FULL** – Planning permission sought for ‘Increase roof height to convert loft to 1no. additional flat with insertion of rooflights, solar panels and flood refuge platform.’ Application withdrawn.
- 2.2 **SW/13/0644** – Planning permission granted on 23.07.2013 for ‘Roof extension and raise height of flat roof to enable creation of third bedroom and ensuite for existing flat in roof.’ Permission not implemented.
- 2.3 **SW/10/1355** – Planning permission granted on 11.01.2011 for ‘Change of use from doctors surgery with one flat to 3 flats in total.’
- 2.4 **SW/10/0375** – Planning permission refused on 27.05.2010 for ‘Change of use from doctors surgery with first floor 2 bedroom flat to four flats in total.’
- 2.5 **SW/84/0694** – Planning permission granted on 17.09.1984 for ‘Group practice surgery first floor flat and seven lock up garages.’
- 2.6 **SW/84/0197** – Outline planning permission granted on 09.04.1984 for ‘Outline application for doctors surgery flat and premises.’

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks planning permission to increase the roof height of the existing single storey extension in order to convert the loft space into habitable space, facilitating an extension to flat 3.
- 3.2 The development will involve raising the ridge height on the part hipped, part flat roof on the existing rear element by approximately 0.7m. A total of seven roof lights are proposed to the modified hipped roof on the southern, northern and western roof slopes, as well as solar panels to the southern roof slope.
- 3.3 A flood refuge platform will also be created on the first floor, to make up for the loss of the flat roof area that currently serves as a flood refuge platform for the two flats on the ground floor.
- 3.4 Internally, the development will provide a large open plan living space for flat 3. The existing kitchen and living area will be converted to a bedroom and bathroom, providing a total of three bedrooms within the flat.

4. CONSULTATION

4.1 One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers.. No comments from neighbours have been received.

4.2 Sheerness Town Council object to the application on the following planning grounds:

Comment	Report reference
Object pending further information from the Planning Officer regarding flood refuge platform.	See paragraphs 7.19 – 7.24

5. REPRESENTATIONS

5.1 **Environment Agency** – Refer to standing advice.

6. DEVELOPMENT PLAN POLICIES6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017**

ST 3 The Swale settlement strategy

CP 4 Good design

DM 7 Vehicle parking

DM 14 General development criteria

DM 16 Alterations and extensions

DM 21 Water, flooding and drainage

DM 28 Biodiversity

6.2 **Supplementary Planning Guidance/Documents**

Supplementary Planning Document – Swale Parking Standards

Supplementary Planning Guidance – Designing an Extension A Guide for Householders

7. ASSESSMENT

7.1 This application is reported to the planning committee because Sheerness Town Council has objected to the proposal. Considering the proposal that has been submitted, the committee is recommended to carefully consider the following main points:

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

Principle

- 7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 7.4 Policy ST 3 of the Swale Local Plan 2017 supports the principle of development within the built-up area boundary of established towns and villages within the borough. The application site is located within the built-up area boundary of Sheerness, where the principle of domestic extensions and alterations are acceptable, subject to the proposal meeting the requirements set out below.

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 In terms of the Local Plan, policies CP 4, DM 14 and DM 16 of the Local Plan state that developments and extensions should be well designed and respond positively to the building and its surroundings.
- 7.7 The proposed development will increase the height of the existing rear extension at the site. The eaves height will remain the same, but the ridge height will increase by approximately 0.7m, and the flat roof area that currently is located in the centre of the roof will be raised to match the ridge height of the extension. Whilst the design of the extension will result in an area of flat roof, given that there are already flat roof features on the property, and the flat roof will not be visible from street level due to the pitched roof proposed around the edge of the flat roof, it is not considered the development will cause harm to the character and appearance of the surrounding area. The plans confirm matching materials will be utilised on the development which will ensure it blends in well with the existing property.
- 7.8 Overall, the development complies with policies CP 4, DM 14 and DM 16.

Living Conditions

- 7.9 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.

- 7.10 The development will lie a minimum of 21m from the closest properties to the rear of the site in Shrubsole Avenue. This is in line with the Council's minimum distance for rear to rear windows, and as such it is considered that the impact upon dwellings to the rear will be minimal. No changes are proposed to the front of the building, so it is not envisaged there will be any harmful impacts to properties on the opposite side of the High Street.
- 7.11 The works will increase the bulk of the roof at the rear of the building, and the development will lie roughly 4m from No. 229a High Street, a residential property to the north. This neighbouring property has both single storey and two storey rear extensions which project rearwards of the host building. Due to this, the proposal will not cause any harmful overshadowing or overbearing impacts to the windows in the rear elevation or the rear garden. There is one small window in the side elevation, however it is a high-set window at first floor level that likely serves a toilet and therefore would not be impacted by the proposal. Overlooking of this neighbour is not of concern as the proposed rooflight on this elevation will be obscure glazed as annotated on the proposed elevation plan. A condition is included below to ensure this window is obscure glazed.
- 7.12 To the south of the site on the other side of Vincent Gardens is No. 237 High Street, a residential property. The extension will lie roughly 14.6m from the side elevation of this property. Given this separation distance and that a highway is located between the host property and this neighbouring dwelling, it is not considered that the development will unacceptably overshadow or cause harmful overbearing impacts to this neighbour. There are several windows in the side elevation of No. 237, which could be overlooked by the rooflights proposed in the extension. This property has no planning history so it is not possible to decipher what rooms these windows serve, however, notably the Council has no minimum distance between the side elevations on neighbouring properties. Furthermore, several of the windows in No. 237 are obscure glazed, which will limit overlooking. In addition, the rooflights in the roof extension will be located at a fairly high level, meaning that views of the adjacent property from these windows will be limited. Taking into account all these factors, the proposal will not be significantly harmful to the amenity of occupiers of this property.
- 7.13 The proposed roof extension will provide a large open plan living and kitchen area for the first floor flat, and this will facilitate the creation of an additional bedroom within the existing living space. The new living space will be served by seven rooflights. The rooflights in the roof extension appear to be located at a fairly high level, meaning that a limited outlook will be provided for occupiers, however taking into account the rooflights will provide a large amount of light into the space, it is not considered the lack of a typical outlook to be of concern here.
- 7.14 Taking the above into account, the scheme is considered to be acceptable and would not cause any substantial harm to the living conditions of neighbours or future occupiers

of the unit. As such the proposal is accord with Policy DM 14 and DM 16 of the Local Plan in this regard.

Transport and Highways

7.15 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.”

7.16 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.”

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

7.18 The development will increase the number of bedrooms at the flat to three. The Council’s Parking Standards SPD advises that a dwelling of this scale in this location should provide one parking space. This space can be accommodated within the parking area to the south west of the building, and as such the increase in the number of bedrooms at the property is acceptable from a highways perspective. As a result the proposal complies with policy DM 7 of the Local Plan.

Flood Risk

7.19 The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. Policy DM 21 of the Local Plan relates to water, flooding and drainage. The policy states that when considering the water-related, flooding and drainage implications of development, development proposals should accord with national planning policy and planning practice guidance and avoid inappropriate development in areas at risk of flooding and in areas where development would increase flood risk elsewhere.

7.20 The site lies within Flood Zone 3, and is at high risk from tidal and fluvial flooding. A site specific Flood Risk Assessment has been provided as part of the application. The Environment Agency has reviewed the scheme and note it falls outside their criteria to comment, and as such they set out the development should be assessed against their standing advice.

- 7.21 The proposed development will create additional living and sleeping accommodation within the building, but taking into account this will be located at first floor level, this is considered acceptable from a flood risk perspective.
- 7.22 Currently the flat roof on the side extension at the building is used as an escape area for the ground floor flats in a flood event. The existing flood refuge platform is approximately 16sqm in size. A smaller flood refuge platform will be retained as part of the development, 5.7sqm in size. There is no standing advice from the Environment Agency on the scale of the flood refuge platforms, and whilst the platform will be smaller than the area of flat roof currently at the site, it is considered to be of an adequate scale given there are only two flats on the ground floor. Overall, taking into account the platform will be located at the same height as the existing area of flat roof, it is considered it will perform the same function and as such, is acceptable.
- 7.23 In order to prevent overlooking of neighbours from the platform, a condition is included below to ensure the platform is not used as a balcony. This was imposed on application SW/10/1355 which granted permission for the flats and it is deemed necessary to impose it again here.
- 7.24 The Town Council objected to the application pending further information from the Case Officer regarding the flood refuge platform. The Case Officer duly contacted the Town Council providing plans and details of the existing and proposed flood refuge platforms to provide clarity on its need and function. However, the Town Council has not provided a response to the Case Officer to confirm whether there continues to be an objection in this regard. Officers consider the flood refuge platform to be adequately designed and acceptable as set out above.

Ecology

- 7.25 The NPPF and Local Plan policy DM28 requires that development proposals will conserve, enhance and extend biodiversity, provide for net gains in biodiversity where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.26 From April 2024, minor developments are required to provide at least 10% Biodiversity Net Gain (BNG). There are exemptions to this, including applications made by householders as defined within article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. This application amounts to householder development, and as such is exempt from the need to provide BNG.

Conclusion

- 7.27 The site is located within the built up area boundary, in a location suitable for domestic extensions. The proposal is appropriately designed and will not harm visual or residential amenities. There is adequate parking available at the site to accommodate the additional bedroom, and whilst the site is located within Flood Zone 3, care has been

taken to ensure the scheme responds appropriately to this flood risk. On this basis, it is recommended that planning permission is granted for this application.

RECOMMENDATION – Grant subject to the following conditions:

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

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

- (2) The development hereby approved shall be carried out in accordance with the following approved drawings, including the materials referenced on the plans: TP/23/107.01A, TP/23/107.02A, TP/23/107.04A, TP/23/107.05A and TP/23/107.06A.

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

- (3) Prior to the first use of the extended area of flat 3 hereby approved the proposed rooflight on the northern elevation of the new roof shall be obscure glazed and maintained as such.

Reason: In the interests of neighbouring amenity.

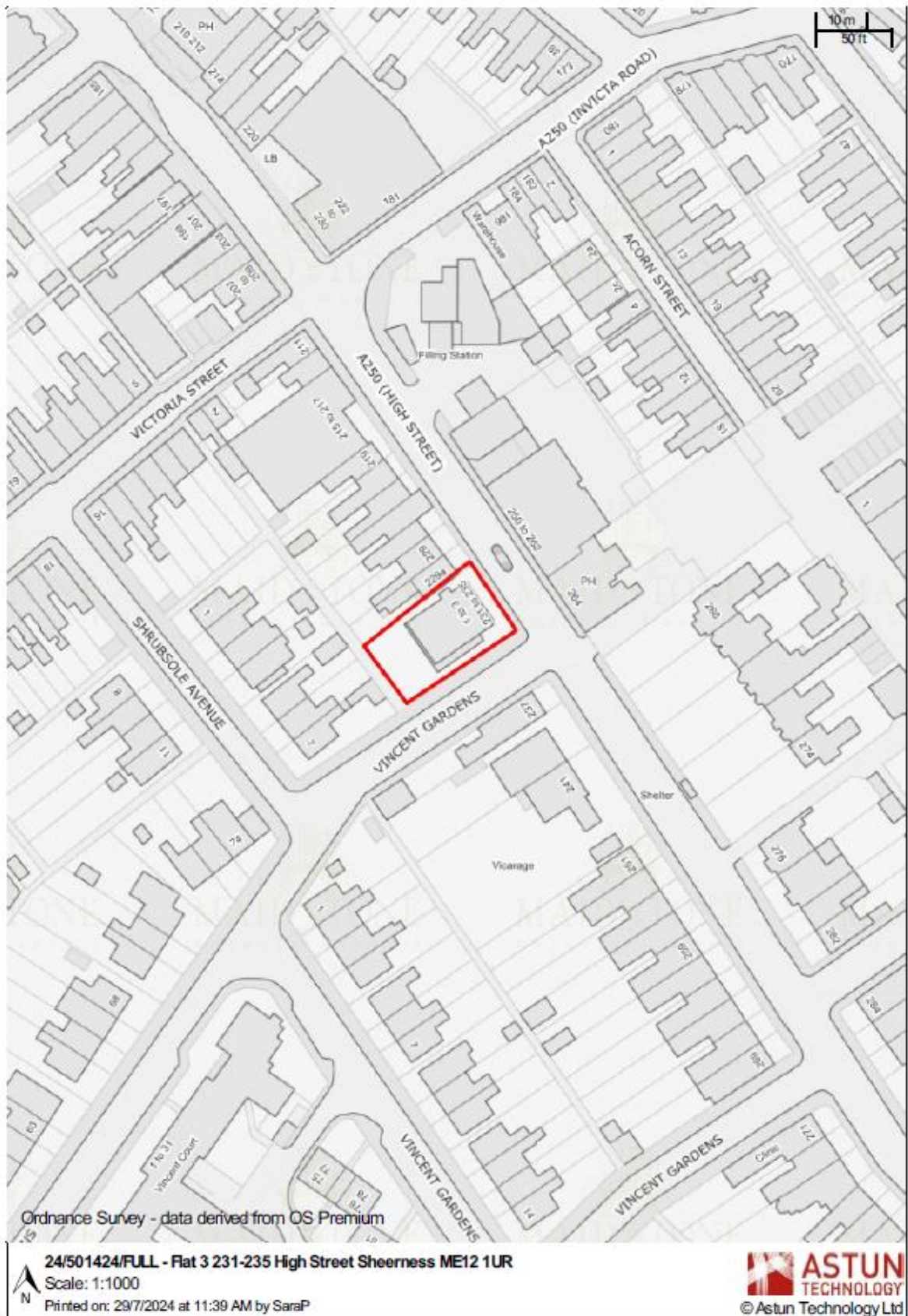
- (4) The flat roof area shown as “flood refuge platform” on approved drawing TP/23/107.02A shall not be used as a balcony or sitting out area and there shall be no other use of the roof area other than as a flood refuge, unless for maintenance.

Reason: In the interests of neighbouring amenity.

The Council’s approach to the application

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

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



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2.5 REFERENCE NO - 24/501489/ADV		
PROPOSAL: Advertisement Consent for 2no. totem signs, 4no. flags and flag poles, and 2no. fascia signs		
SITE LOCATION: Parcel G Harps Farm, Thistle Hill Way, Minster-on-sea, Kent		
RECOMMENDATION: Delegate to the Head of Planning to grant advertisement consent subject to appropriate safeguarding conditions set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE: Advertisement Consent		
REASON FOR REFERRAL TO COMMITTEE: Minster-on-sea Parish Council has objected to the proposed signage.		
Case Officer: Luke Simpson		
WARD: Sheppey Central	PARISH/TOWN COUNCIL: Minster-on-sea	APPLICANT: Jones Homes (Southern) Ltd AGENT: Rosie Dennis (DHA Planning)
DATE REGISTERED: 05/04/2024		TARGET DATE: 18/06/2024
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - 1283/Sales arena/02 C - Sales arena, signage and flag locations 1283/Sales arena/03 C - Sign board and flag poles 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=SBGJOVTYJKG00		

1. SITE LOCATION AND DESCRIPTION

1.1 The application site is located in Minster-on-sea on the Isle of Sheppey and is part of a wider development site, known as Harps Farm, that benefits from outline planning permission (SW/13/1455) and permission of reserved matters for Parcel G (19/503120/REM). This application for advert consent relates to the erection of advertisements along the eastern boundary of Parcel G of that wider site, which has been granted consent for 171 dwellings. This parcel is currently under construction with some dwellings completed close to Scocles Road.

2. PLANNING HISTORY

- 2.1 24/501524/NMAMD – Non-material amendments approved on 24.06.2024 to allow temporary changes to the site layout for the provision of the sales area and amendments to the floor plans and elevations of the Birch and Holford house types approved under 19/503120/REM.
- 2.2 19/503120/REM - Reserved Matters of access, appearance, landscaping, layout and scale approved on 14.12.2021 for erection of 171 dwellings on land at Parcel G pursuant to outline application SW/13/1455.
- 2.3 SW/13/1455 - Outline planning application approved on 16.10.2017 for the residential development (of up to 431 dwellings).

3. PROPOSED DEVELOPMENT

- 3.1 Temporary advertisement consent is sought for two signage boards, four flag poles and a building fascia sign on a temporary basis for five years. The covering letter submitted alongside the application states that “this application seeks to obtain permission for the sales related advertisements located on the Scocles Road frontage where the sales units are to be located, to allow for the effective marketing of future properties.”
- 3.2 The two signage boards measure 2.0m wide by 2.39m tall, are attached to aluminium poles and set 1.2m above ground level (overall height of 3.59m). The boards are made of aluminium with digitally printed vinyl graphics applied, which consists of an image of a house and either blue or white text on a blue or white background. They are situated either side of the temporary sales access to the site from Scocles Road.
- 3.3 Two of the four flags would be located close to the signage boards described above with a further two flags located at intervals along the Scocles Road to the south west. The four flags are made of blue and white coloured polyester with white text/branding which measure 0.9m wide by 1.8m tall, attached to aluminium flagpoles measuring 5m in height.
- 3.4 The fascia sign would be positioned on the west facing elevation of the dwelling identified as unit 104 (currently a show home) and consists of blue text/branding. The sign measures 7.46m in width by 1.23m in height and would be positioned at a height of 3.16m above ground level.
- 3.5 When visiting the site, it was noted that one flag sign and one signage board have already been installed, but as they are in different positions to the locations shown on the submitted plan, these advertisements would necessarily be removed and re-located to accord with the proposed drawings.

4. CONSULTATION

- 4.1 One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers, and a notice was displayed at the application site. Full details of representations are available online.
- 4.2 1 letter of representation has been received in relation to the consultation objecting to the application. Concerns/ comments were raised in relation to the following matters:

Comment	Report reference
There are already a number of signs in the local area erected by the developer and additional signage will lead to an over proliferation of advertisements in the area harming visual amenity.	See paragraphs 7.5 and 7.9.

4.3 Minster-on-Sea Parish Council raised the following objection to the proposal:

Comment	Report reference
<i>“The advertising is in Scocles Road, there is no access to the site from this road. This is a dangerous road with no footpath, and the site is on a bend, it would therefore be a dangerous distraction for drivers. Had a footpath been included in the application our view may have been different.”</i>	See paragraphs 7.8 and 7.9.

5. REPRESENTATIONS

5.1 **Mid Kent Environmental Health** - No objection.

5.2 **Kent County Council Highways** - There are no highway implications associated with the proposal.

6. DEVELOPMENT PLAN POLICIES

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

CP4 Requiring good design,

DM14 General development criteria,

DM15 New shopfronts, signs and advertisements

6.2 **Supplementary Planning Guidance (SPG)**

- The Design of Shopfronts, Signs & Advertisements

7. ASSESSMENT

7.1 This application is reported to the Committee because Minster-on-Sea Parish Council has objected to the proposal.

As this is an application for advertisement consent, as defined by the Advertisement Regulations the only matters for consideration are as follows:

- Amenity
- Public safety

Amenity

Visual impact of the proposal

- 7.2 Visual impact typically relates to appearance of the advertisement itself and the characteristics of the area where it is to be displayed but does not include the content or subject matter of the advertisement display. Policy DM15 and the Council's SPG entitled 'the design of shopfronts, signs and advertisements' advise that such development should respect the character of the surrounding area and should not be excessive in quantity.
- 7.3 The proposed advertisements are non-illuminated and would be positioned along one of the existing road frontages of a residential development which is currently under construction. The part of the site where the adverts are proposed to be located includes the sales area related to the development.
- 7.4 The proposal as originally submitted was considered to be inappropriate due to the number of signs that were proposed (2 signs boards, 8 flag signs and a fascia sign), and their resultant impact in terms of cluttering the surrounding street-scene. However, the applicant amended the application to remove four of the originally proposed flag signs.
- 7.5 The adverts proposed are all located in close proximity to the sales area limiting the visual impacts to an area small in scale and positioned against the backdrop of a much larger development site. The proposal is also temporary in nature which would limit any impacts further. It is noted that a separate housing development on the opposite side of Scocles Road also includes advertisements. It is however considered that these adverts, in combination with the adverts proposed for this site when considered cumulatively do not constitute an over proliferation of advertisements when the size of the respective sites relative to the limited scale of the adverts are taken into account. It is therefore considered that two boards, four flag poles and a fascia sign does not result in an unacceptable level of visual clutter or that it would be harmful to the visual amenity of the surrounding area and is in accordance with policy DM15.

Residential Amenity

- 7.6 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Specifically, Local Plan 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.
- 7.7 The proposed signage is non-illuminated and no objection has been raised by the Council's Environmental Health department. The closest existing residential properties to the adverts are those located in Jasmin Close to the south west, those dwellings fronting Scocles Road to the north and the recently constructed dwellings on the opposite side of Scocles Road. The closest dwelling is located approximately 25m away from the adverts. Given the separation distance and the above factors it is not considered that the proposal would cause any unacceptable harm to the living conditions of existing occupiers and complies with policy DM14.

Public safety

- 7.8 The sign boards have deliberately been positioned at a 40° angle to the roadside to enable the signage to be visible to passing traffic. Although I note that Minster-on-sea Parish Council have raised concern regarding the adverts being a distraction to drivers, KCC Highways have confirmed that the proposal raises no highway safety concerns.

Accordingly, no objections have been raised or conditions have been recommended in relation to highway safety matters.

Other matters

- 7.9 The comments received from the neighbouring occupier and Minster-on-sea Parish Council are noted. Some of the points raised have been dealt with by virtue of the discussion above, however, of those that remain the following response is provided. Firstly, aside from the adverts on the opposite side of Scocles Road, the other adverts mentioned by the neighbour are not visible from the location of the adverts subject to this application. Finally, in terms of the point raised by the Parish Council in respect of there being no access from Scolces Road into the development, as part of the reserved matters approval (ref. 19/503120/REM) an emergency and pedestrian access was secured from Scocles Road. A subsequent non-material amendment has been approved (ref. 24/501524/NMAMD) which has consented a temporary vehicular access to the sales area only from Scocles Road.

Conclusion

- 7.10 This application proposes temporary signage related to the consented housing development. It is not considered that the proposed signage would have an unacceptable impact upon either visual and residential amenity, nor result in any harm to highway safety, which are the statutory tests here. The proposal would comply with policies DM14 and DM15 of the Local Plan and the NPPF.

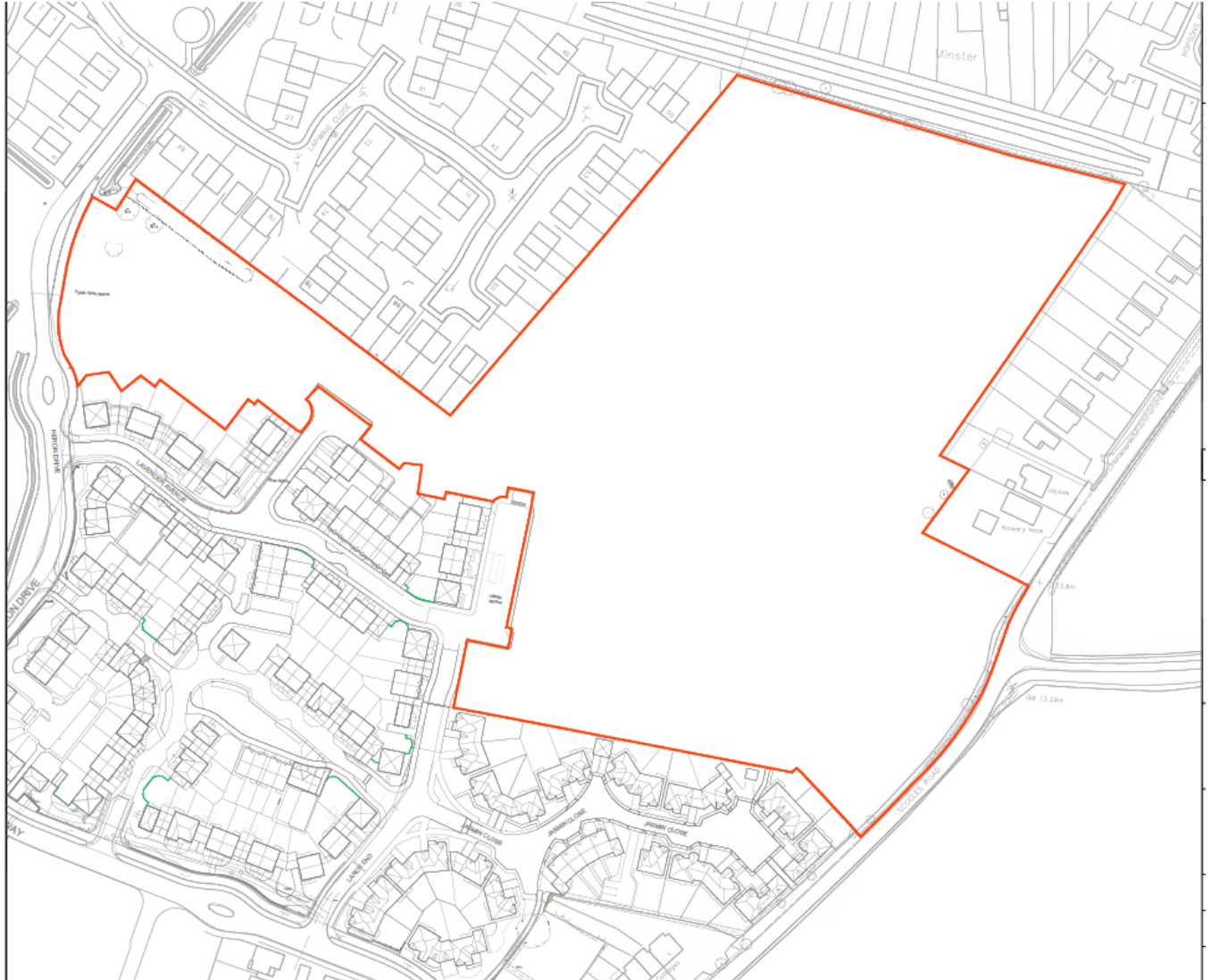
CONDITIONS

- (1) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- (2) No advertisement shall be sited or displayed so as to:
 - a. endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - b. obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - c. hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- (3) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
- (4) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
- (5) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

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

- (6) The advertisements hereby permitted shall be removed no later than five years from the date which this consent is granted.

Reason: In the interests of visual amenity.



2.6 REFERENCE NO: - 24/500823/FULL		
PROPOSAL: Continued use of the rear external area for the siting of children's fairground rides and associated attractions, for a temporary period of two years (retrospective).		
SITE LOCATION: Jimmy Gs Amusements The Promenade Leysdown Sheerness Kent ME12 4QB		
RECOMMENDATION: Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE: Minor		
REASON FOR REFERRAL TO COMMITTEE: A request has been submitted by Councillor Elliot Jayes for the application to be presented to and determined by the planning committee due to concerns over the potential impacts of the scheme on the residential amenity of the occupiers of neighbouring dwellings.		
Case Officer: Luke Simpson		
WARD: Sheppey East	PARISH/TOWN COUNCIL: Leysdown	APPLICANT: Mr Godden AGENT: N/A
DATE REGISTERED: 15/03/2024		TARGET DATE: 06/05/2024
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - Planning Statement dated 23/02/2024 (uploaded on 26/02/2024) Flood Risk Assessment dated 11/03/2024 (uploaded on 26/02/2024) Location Plan (24016/002/A) dated 21/02/2024 (uploaded 26/02/2024) Block Plan (24016/001/B) dated 21/02/2024 (uploaded on 04/03/2024) Site Floor Plan (24016/004/A) dated 04/03/2024 (uploaded on 04/03/2024) Elevation Plans – drawing 1 (24016/002/A) dated 04/03/2024 (uploaded 04/03/2024) Elevation Plans – drawing 2 (24016/003/A) dated 04/03/2024 (uploaded 04/03/2024) KCC Highways consultee response dated 19/03/2024 (uploaded 19/03/2024) Environmental Protection consultee response dated 21/03/2024 (uploaded 21/03/2024) Neighbour representation from Mr Chris Frances dated 06/04/2024 Neighbour representation from Mr Gary Howells dated 17/03/2024 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=S9GMUKTYLC500>

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site relates to a piece of land situated at the rear of Jimmy G's Amusements, on the Promenade of Leysdown. The site is a hard surfaced area that is occupied by a number of amusements and small children's fairground rides. This use was granted temporary planning consent in 2021 under application referenced 19/501431/FULL (see Planning History section below).
- 1.2 The site is enclosed to the north by residential properties on the southern side of Grove Avenue, to the east by the Jimmy G's Amusements itself, to the south by a storage yard and west by the promenade car park.

2. PLANNING HISTORY

- 2.1 **24/500546/FULL** – Planning permission refused on 17.05.2024 for Demolition of existing single storey detached ancillary building and erection of a two storey rear extension, including full refurbishment of existing amusement centre and construction of a raised entrance area with entrance canopy to side. Reconfiguration of car park and associated landscaping works.
- 2.2 **19/501431/FULL** - Planning permission granted on 24.11.2021 for Continued use of the rear external area to an established amusement centre for children's fairground rides & associated attractions. (Retrospective).
- 2.3 **SW/07/1058** – Planning permission granted on 30.10.2007 for Refurbishment of existing amusement centre, including relocating and provision of new shopfronts, re-cladding existing roofs & fascias and provision of new external wall cladding to all elevations.
- 2.4 **SW/84/0172** – Planning permission granted on 17.05.1984 for Hairdressers, kentucky derby, café, offices, workshop, amusement arcade, bingo area, bingo shop, kiddies area, bumper car area, paybox and workshop.
- 2.5 **SW/83/0545** – Planning permission granted on 28.07.1983 for Change of use from hairdressers to amusements.

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks retrospective temporary planning permission for the continued use of the rear external area for the siting of children's fairground rides and associated attractions. The temporary permission being sought is for a period of two years.

4. CONSULTATION

- 4.1 One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers and a notice was displayed at the application site. Full details of representations are available online.
- 4.2 2 letters of representation were received in relation to the consultation, both objecting to the application. Concerns/ comments were raised in relation to the following summarised matters: -

Comment	Report reference
Impact of noise from music and associated activity on neighbouring amenity.	See paragraphs 7.11 – 7.18
Impact of light pollution from security lighting / advertisements on neighbouring amenity.	See paragraph 7.20
The impact of the fairground on the visual amenity of the area.	See paragraph 7.6
Concern regarding the boundary treatment and planting between the application site and neighbouring properties.	See paragraph 7.20

4.3 **Leysdown Parish Council** - No comments received.

5. REPRESENTATIONS

5.1 **Mid Kent Environmental Health** – No objection subject to the implementation of noise mitigation, including the installation of a noise limiter to amplifiers and a noise management plan detailing noise control measures and a procedure for dealing with direct complaints. It is also recommended that illuminated signage is not appropriate or should be controlled, although this would need to be done through a separate application for advertisement consent.

5.2 **KCC Highways** - This development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

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

ST6 The Isle of Sheppey Area Strategy

CP1 Building a strong, competitive economy

CP4 Requiring good design

DM7 Vehicle parking

DM14 General development criteria

7. ASSESSMENT

7.1 This application is reported to the Committee at the request of Cllr Elliot Jayes. Considering the proposal that has been submitted, the committee is recommended to carefully consider the following main points:

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

Principle

- 7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 7.4 The site lies within the built-up area boundary of Leysdown, in an area of established arcades and amusements. The use of the site as an amusement arcade is already established, and the rides are positioned on an existing hardstanding close to the existing amusements centre. The principle of development is therefore considered acceptable.

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 Swale Borough Local Plan reinforces this requirement through Policy CP4, which requires development proposals to be of high-quality design and to be in keeping with the character of the area.
- 7.6 The site comprises an area of hardstanding at the rear of an amusements arcade known as Jimmy G's, which has been used to accommodate a number of fairground attractions and associated structures. The surrounding part of Leysdown can be characterised by seaside attractions that are common for such areas, with another amusement arcade on the opposite side of the promenade (east) and a crazy golf course to the north-east of the site and a large public car park to the west. However directly to the north also lies a terrace of residential dwellings. Mindful of this established character and the fact that the site is situated behind the main arcade and therefore is only visible from the public car park, it is considered that the retention of the children's rides and associated structures would not have a significantly detrimental impact on the character and appearance of the area. Whilst some objectors have raised concern about the visual impact of the open rides, this is against the backdrop of the amusement arcades on the promenade, and it is not considered to be visually harmful or in conflict with Policies CP4 or DM14 of the Local Plan.

Transport and Highways

- 7.7 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.”

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

7.10 No changes are proposed to the size of the existing fairground or the number of attractions that will be accommodated within it. It is not anticipated that the proposal in itself would result in any material increase in visitors to the site or an increase in parking demand for the area. In any case, the site is located immediately adjacent to a large public car park. As such it is not considered that the proposal would have a detrimental impact upon the function of the local highway network, and would not be in conflict with policies DM7 or DM14 of the Local Plan.

Living Conditions

7.11 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Local Plan Policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas.

7.12 As stated above, the wider area is established as a tourism area with established amusements and where a degree of noise is to be expected. However careful consideration must be given in respect of this development, particularly in regards to opening hours and any excessive noise and disturbance that the use of this area for children’s rides could cause. Objections have been received from occupiers of two of the terraced properties at Seaview Mews, situated to the north of the site, which are primarily based upon noise and light impacts from this development.

7.13 The Council’s Environmental Health Officer has reviewed the application and has confirmed that whilst there are no objections to the continued use of the site for accommodating small fairground attractions; there are a number of issues that will need to be addressed and controlled through the use of appropriately worded conditions.

7.14 A number of complaints have been raised by local residents that are related to light and noise pollution issues associated with the use of the site as a small fairground, and the site has been previously monitored by the Council’s Environmental Health Officers following the receipt of enforcement complaints. In total four formal enforcement complaints have been received, each of which relate to the playing of amplified music outside of permitted hours or the operation of the development past the expiry date of the previous temporary permission. As a result of the previous temporary consent expiring, this current application has been submitted for consideration. Further to this, silencers have been added to one of the rides (previously known as Jumping Jack but now referred to as Jumping Star). However, it is noted that in their response Environmental Health have stated that investigations into amplified noise are still ongoing and it is recommended that further controls are needed

in the form of a noise limiter, a noise management plan and the implementation of timed activation controls to ensure that amplifiers are not operated beyond the permitted operational hours of the rides. It is also recommended that the ride identified as 'Jumping Star' on the submitted site plan should continue to only be operated with pneumatic silencers.

- 7.15 The suggested conditions related to the noise limiter, timed activation control and the retention of silencers are all deemed to be relevant in this instance and as such have been recommended below. The noise limiter and timer control introduces an increased level of control compared to the previous consent granted under ref. 19/501431/FULL. As it is considered that these measures would ensure an appropriate level of control over noise, it is not considered necessary to include a condition that requires the applicant to submit a further noise management strategy, particularly given that local residents already have the opportunity to raise complaints to the Council's Planning Investigation or Environmental Health teams. As a result, this condition has not been recommended.
- 7.16 The application seeks opening hours of between 10am and 7pm, 7 days a week including bank holidays, which are considered to be acceptable and as such these hours have also been conditioned below.
- 7.17 In terms of overlooking, the tallest ride (Jumping Star) has a total height of 7.5 metres to the very top of the sign, but the carriage for people is only 4.5m high. However, this ride is approximately 23m from the neighbouring properties rear garden fence, and on this basis, it is not considered that this would give rise to an unacceptable loss of privacy. The other rides and attractions are small in size and are positioned away from the neighbouring residential dwellings. The site backs onto the current public car park and it is therefore considered that there would not be any harmful opportunities for overlooking and the scheme would not result in any unacceptable levels of overshadowing or a loss of outlook.
- 7.18 Subject to compliance with these conditions, it is considered that the proposed development would not create a situation that would result in significant harm to the residential amenities of the occupiers of neighbouring dwellings, and would not be in conflict with Policy DM14 of the Local Plan.

Other matters

- 7.19 The applicant has submitted a flood risk assessment which states that part of the site lies within Flood Zone 2/3; however, the Environment Agency Flood Maps for Planning confirms that the site is wholly within Flood Zone 1 and therefore is at low risk of flooding. It has therefore not been necessary to consult the Environment Agency or consider impacts from flooding.
- 7.20 Although some of the points raised by neighbouring occupiers have been considered as part of the above discussion those points that remain are responded to as follows. Concerns regarding boundary treatment appear to relate to planting growing over neighbouring gardens. This is considered to be a private matter although occupiers do have the right to cut planting that is growing over the property boundary. In addition, it is recognised that there are concerns regarding security lighting. Although this

application is not seeking consent for security lighting this is able to be raised separately with the Council. A condition has also been imposed regarding lighting. Finally, concerns regarding lighting from advertisements are not controlled by this application for planning permission, but separately via advertisement consent / regulations.

Conclusion

- 7.21 In summary it is considered that through the use of appropriately worded planning conditions the retrospective application for the continued use of the site for children's amusement rides will not have an unacceptable impact on residential or visual amenities, and would accord with the Local Plan. It is therefore recommended that planning permission be granted for the temporary period as sought.

CONDITIONS

- 1) The use hereby permitted shall cease on or before the expiry of a period of two years from the date of this permission.

Reason: In order that the impact of the use can be reviewed at the end of the period stated.

- 2) The development hereby approved, including the positioning of the rides and attractions shall be maintained in accordance with approved plans 24016/001/B, 24016/002/A, 24016/003/A and 24016/004/A.

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

- 3) The development hereby approved shall not be operated or open to the public outside the hours of 10.00 to 19.00 Monday - Sunday.

Reason: In the interest of the residential amenities of the area.

- 4) The noise amplifiers/speakers to the rear of the main building and within the area to which this application relates shall be fitted with a timer control system to ensure that the speakers are switched off between the hours of 19:00 and 10:00. From permission being granted, this is to be installed within a one-month period.

Reason: In the interests of residential amenity.

- 5) The ride known as the 'Jumping Star' ride on layout plan 24016/001/B (referred to as "Jumpin Jack" on the site) shall only be operated with pneumatic silencers installed and these shall be maintained in accordance with the manufacturer's instructions thereafter.

Reason: In the interests of residential amenity.

- 6) No rides shall remain switched on or illuminated outside of the hours referred to in condition (3), and no new floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

Reason: In the interests of visual and residential amenity.

- 7) Any noise amplifiers/speakers to the rear of the main building and within the area to which this application relates shall be fitted with a noise limiter, details of which shall be submitted to the Local Planning Authority within one month of the date of this permission. The details shall include the noise level (in dB) that the limiters shall restrict noise levels to. The noise limiters must be installed within one month of being approved and subsequently maintained.

Reason: In the interest of residential 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.

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



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2.7 REFERENCE NO 23/504718/FULL		
PROPOSAL Erection of two detached dwellings with solar panels, associated access, parking, landscaping, bin and shed/cycle stores.		
SITE LOCATION The Vicarage 101 The Street Boughton Under Blean Kent ME13 9BG		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to securing a SAMMS payment and subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Minor Dwellings		
REASON FOR REFERRAL TO COMMITTEE Boughton under Blean and Dunkirk Parish Council object to the application.		
CASE OFFICER Guy Martin		
WARD Boughton and Courtenay	PARISH COUNCIL Boughton under Blean	APPLICANT Canterbury Diocesan Enterprises Ltd AGENT Bishops Planning
DATE REGISTERED 01.11.23	TARGET DATE 29.02.24	
BACKGROUND PAPERS AND INFORMATION: All drawings submitted: Existing Site Plan A1652-02-P1 Site Location Plan A1652-01 Rev 3 Proposed Site Plan – Ground Floor Layout A1652-10 Rev P3 Proposed Site Plan – First Floor Layout A1652-11 Rev P3 Proposed Site Plan A1652-09 Rev P3 Proposed Bin Store Plans and Elevations A1652-200 Rev P2 Proposed Shed Cycle Store Plans and Elevations A1652-201 Rev P2 Dwelling 2 Floor Plans and Elevation A1652-101 Rev P3 Proposed West Elevation / Street Scene A1652-20 Rev P4 Landscaping Plan 0656-24-1 LPP Proposed South Elevation A1652-21 Rev P4 Architects Notes and Images Typical Section A1652-300 Rev P1 Dwelling 1 Floor Plans and Elevation A1652-100 Rev P3 Solar Roof System Solar Tile Details 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=S2MNCZTYJK900		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The site comprises part of the rear garden of a residential property - The Vicarage. The majority of the site is broadly rectangular in shape although it does also include a slither of land extending to the side of The Vicarage adjacent to the boundary with the highway. The northern part of the site lies within the Boughton Street Conservation Area. The site lies immediately adjacent to Arthur Kennedy Close, situated to the west of the site. This cul-de-sac slopes down from The Street and comprises modest detached and semi-detached bungalows.

2. PLANNING HISTORY

19/504115/TCA – No objection raised on 07.10.2019 to: Fell eight Conifers; Crown reduce two Fruit trees to spread of 2.5m.

TC/00/0002 - No objection raised to 1.) Selectively cut back branches from row of Monterey Cypress trees adjacent to The Street. 2.) Reduce row of 6 Leylandii and row of 5 Leylandii trees and two large Conifers adjacent to Arthur Kennedy Close.

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks planning permission for the erection of two detached dwellings with solar panels, associated access, parking, landscaping, bin and shed/cycle stores.
- 3.2 The proposed development located within part of the rear garden of the existing property known as 'The Vicarage' would comprise a 4 bedroom property and a 3-bedroom property with three and two parking spaces respectively. Access to the properties would be from Arthur Kennedy Close which the dwellings would front onto. The properties would be two stories, rising to a height of 8.4m to match the height of the Vicarage and would possess a mix of modern and traditional materials incorporating brickwork, cladding and hanging tiles. Each property incorporates an electric vehicle charging point, a cycle store, water butt and an air source heat pump. To the rear of both properties would be private amenity space.

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 During the first round of consultations letters of representation from 10 separate addresses were received, all objecting to the application. Concerns/comments were raised in relation to the following matters:-

Comment	Report reference
That the proposal would impact adversely upon the Boughton Street Conservation Area.	7.27
That the proposed dwellings are out of character with the area and would represent overdevelopment.	7.15-7.17
That trees were removed unlawfully prior to the submission of the proposal.	7.65

That the proposal would be overbearing upon neighbouring properties adversely impacting upon neighbours privacy and light.	7.32-7.34
That the proposal would exacerbate local flooding issues.	7.65
That there would be an impact upon neighbour's foundations and subsidence.	7.65
That the loss of parking and proposed access would have an adverse impact locally.	7.43-7.45
Increase in traffic adversely impacting upon highway safety.	7.45
Adverse impact upon local amenities during the construction process.	7.35
Residents of Arthur Kennedy Close had not been consulted.	7.65
That the proposal would set a precedent for future development.	7.65
Adverse impact upon the landscape.	7.18-7.19
That there would be insufficient access for emergency services and refuse vehicles.	7.45-7.46
That the hours of operations on site are unacceptable.	7.35
That the Diocese signed an agreement not to carry out further housing building work on the site when The Vicarage was built.	7.65
That the site is not agreed for housing within the Local Plan / Neighbourhood Plan.	7.4-7.7
That the Vicarage is a community asset with the garden used for events which will be lost.	7.65
That no further housing sites would be allocated by SBC within the area.	7.4-7.7
That the proposal does not take account of the Boughton and Dunkirk Neighbourhood Plan.	7.59-7.61
That the land represents previously development land and that the land is therefore exempt from development.	7.65
That the proposal would have an adverse impact upon biodiversity.	7.62-7.63
That no confirmation has been provided that Biodiversity Net Gain will be provided.	7.62-7.63
That no ecological surveys have been submitted as required by policy DM28.	7.62
That no SAMMS mitigation payment has been offered.	7.57
That the proposal would have an adverse impact upon the nearby listed building.	7.27
That no sunlight/daylight modelling has been carried out to determine the impact upon the vicarage.	7.32-7.36
That the proposal does not provide sufficient parking for the two dwellings and will result in parking overspill onto The Street.	7.43-7.44
That hard surfacing will result in surface runoff impacting upon neighbouring properties.	7.65
That the proposal would set a precedent within the local area.	7.65

- 4.3 During the second round of consultations letters from 3 separate addresses were received. 2 of these letters were from addresses that had previously objected to the application, maintaining an objection. 1 letter set out that it was neither objecting to nor supporting the application. Concerns/comments were raised in relation to the following matters (only additional matters which have not been included above are set out below):-

Comment	Report reference
That the site noted as similar to the proposal by the applicant is located approximately 0.5 miles from this site.	7.17
That the proposed hedgehog highways would not be located within the applicant's fence.	7.64
That additional trees adjacent to a telegraph pole may cause access issues for the operator.	7.65

- 4.4 During the first round of consultation Boughton under Blean Parish Council objected to the application for the following summarised reasons:

Comment	Report reference
Adverse impact upon local amenities from noise and disturbance from the proposed properties.	7.35
Overlooking and loss of privacy, loss of daylight and overshadowing of neighbouring properties.	7.32-7.36
Overdevelopment of the site in respect to size, scale and number of proposed dwellings.	7.15-7.17
Adverse visual impact upon the street scene.	7.19
Adversely impact upon the character and appearance of the adjacent Conservation Area and adjacent heritage assets.	7.27
Insufficient parking provision impacting upon neighbouring properties.	7.43-7.44
That trees within the garden of The Vicarage were cut down prior to the submission of the proposal.	7.65
That the site suffers from flooding and that a concise sewage/drainage report should be provided prior to further consideration of the proposal.	7.65
That design guidance within the Boughton and Dunkirk Neighbourhood Plan has been ignored failing to meet the requirements of policies H5 relating to design and being sympathetic to the street scene, and paragraph 62.3 regarding carbon neutrality and reductions in energy usage.	7.18-7.19
Concern was raised over access of construction traffic to the site and impact upon pedestrians.	7.35
Concern was raised over any profits from the development going to the Diocese of Canterbury rather than the Parish benefiting directly.	7.65
Local residents had not been consulted.	7.65

- 4.5 During the second round of consultation Boughton under Blean Parish Council continued to object to the application, reiterating the comments as set out above and raising the following further summarised points:

Comment	Report reference
That there is insufficient visitor parking conflicting with policies H8 and T3 of the Boughton and Dunkirk Neighbourhood Plan (BDNP);	7.43-7.44
That the proposal would result in the loss of parking spaces within Arthur Kennedy Close;	7.43-7.44
That the proposal fails to provide Biodiversity Net Gain (BNG) as set out within BDNP policy E8.	7.59-7.63

- 4.6 During the first round of consultation Dunkirk Parish Council objected to the application for the following summarised reasons:

Comment	Report reference
That the proposal would have an adverse impact upon the adjacent Conservation Area, Listed Buildings and setting of the Vicarage.	7.27
That the scale and bulk of the proposal would be out of keeping with the wider area.	7.15-7.17
That the proposal would result in overshadowing, overlooking, loss of privacy and an adverse outlook to neighbouring properties.	7.32-7.36
That the loss of the Vicarage garden would have an adverse impact upon its community use.	7.65
Insufficient parking resulting in additional cars and the loss of three parking spaces would adversely impacting upon highway safety within The Street failing to meet the requirements of policies H8 and T3 of the BDNP.	7.43-7.44
That there would be additional pressures upon local infrastructure including schools.	7.65
That BNG is required on site and trees were previously felled on site prior to the submission.	7.59-7.65
Inadequate landscaping on site;	7.18

- 4.7 During the second round of consultation Dunkirk Parish Council continued to object to the application, raising the further summarised points:

Comment	Report reference
That the houses are not in keeping with the other properties within the Close.	7.19

5. REPRESENTATIONS

- 5.1 **KCC Archaeology** – No objection subject to an archaeological evaluation and mitigation condition.
- 5.2 **KCC Ecology** – No objection subject to a condition requiring ecological enhancements.
- 5.3 **KCC Highways** - The proposal does not meet their criteria to warrant involvement from the Highways Authority.
- 5.4 **SBC Conservation Officer** – No objection subject to conditions relating to materials, detailing, landscaping and the removal of permitted development rights.

5.5 **SBC Environmental Health** – No objection subject to a construction hours condition.

6.0 DEVELOPMENT PLAN POLICIES

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

ST 1	Delivering sustainable development in Swale
ST 3	The Swale settlement strategy
CP 2	Promoting sustainable transport;
CP 3	Delivering a wide choice of high-quality homes;
CP 4	Requiring good design
DM 3	The rural economy
DM 7	Vehicle Parking
DM 14	General development criteria
DM 16	Alterations and extensions
DM 19	Sustainable design and construction
DM 24	Conserving and enhancing valued landscapes
DM 28	Biodiversity and geological conservation
DM 32	Development involving listed buildings
DM 33	Development affecting a Conservation Area
DM 34	Scheduled Monuments and archaeological sites

Supplementary Planning Guidance / Documents:

Conservation Area Supplementary Planning Guidance (SPG)
 Swale Borough Council Parking Standards SPD 2020
 Boughton Street Conservation Area Character Appraisal and Management Strategy
 2019

Boughton & Dunkirk Neighbourhood Plan

H1	Housing
H3	Housing mix
H5	New Residential Development
H8	Residential Parking
T3	Residential Parking
E6	Environmental Impacts
E8	Biodiversity Net Gain
E9	Local building distinctiveness
E10	Design and Planning

7.0 ASSESSMENT

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

The Principle of Development
 Character and appearance
 Heritage
 Living Conditions
 Transport and Highways
 Archaeology
 Ecology

Other Matters

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 Swale Local Plan 2017 supports development within the built-up area boundaries in the borough.
- 7.5 Policies H1 and H3 of the Boughton and Dunkirk Neighbourhood plan states that the provision of new housing within the Plan area, particularly to meet local needs, should include a mix of housing types and will be supported, where such proposals comply with all other relevant policies in this Plan and those in the adopted Swale Borough Local Plan.
- 7.6 In this case, the proposed development site lies within the built-up area boundary of Boughton under Blean, near the centre of the village and within the curtilage of an existing residential dwelling. Policy ST3 of the Local Plan places Boughton under Blean in tier 4 of the settlement hierarchy and states *“Boughton: There are some minor opportunities for development, but its setting and the valued habitats and landscapes around the village constrain its major expansion. Given its population, local services are not as extensive as other centres and could be enhanced.”*
- 7.7 In light of this the principle of carrying out development on the site is considered acceptable, subject to the proposal meeting the policy requirements set out below.

Character and appearance

- 7.8 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.
- 7.9 Policy CP 4 of the Swale Local Plan 2017 requires development proposals to be of high-quality design and to be in keeping with the character of the area. It states that particular regard should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any future proposals.
- 7.10 Policy H5 of the Boughton and Dunkirk Neighbourhood Plan supports new residential development that are of good design, sympathetic to the street scene and achieve reductions in energy use.
- 7.11 Policy E10 of the Boughton and Dunkirk Neighbourhood Plan states that schemes must produce a cohesive and high-quality design approach for car parking, charging points, boundary treatments, bin stores, utility storage boxes, lighting and street furniture. All landscaping and boundary planting should be of native species.

- 7.12 Policy E6 of the Neighbourhood Plan states that development proposals which minimise the adverse environmental impacts of new development and promote sustainable forms of development will be supported.
- 7.13 Policy E9 of the Neighbourhood Plans states that 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.
- 7.14 The proposal comprises of the erection of two detached properties, with barn hip roof design with an M shaped gable on the rear elevation. On the front elevation each property would incorporate a two-storey canopy porch with a catslide roof feature. The proposed new dwellings are to be constructed using a mix of modern and traditional materials incorporating brickwork, cladding and hanging tiles. The dwellings will benefit from three parking spaces for the 4-bedroom property and two parking spaces for the 3-bedroom property. The two proposed properties are located 2m apart with the southernmost dwelling located 2.7m from no. 12 Arthur Kennedy Close which would prevent visual terracing with the street.
- 7.15 The proposed dwellings located within the rear garden of the Vicarage would be set back on their plots, rising to a height of 8.4m which would match the height of the Vicarage. Whilst the remainder of Arthur Kennedy Close comprises of single storey dwellings, through the proposal lying to the rear of the Vicarage the erection of the two storey dwellings would be consistent with the height of this property with a density in keeping with the wider locality. It is also taken into account that The Street, from which there is some inter-visibility with the site, includes single storey, two storey and two and a half storey buildings.
- 7.16 It is of importance to note that The Vicarage occupies a corner plot and as a result, the rear garden runs along the boundary with Arthur Kennedy Close. This allows the proposed dwellings to be laid out in such a way that they are fronting onto the highway, in a manner consistent with the established pattern of development in the area. Taking all the above into account it is considered that the introduction of two storey dwellings in this location would be not give rise to any unacceptable harm to the character of the area.
- 7.17 The Vicarage and the properties within Arthur Kennedy Close were all erected post 1960 with the proposal representing a more contemporary design. There are a wide variety of building designs in the local context and as such it is considered that the design of the properties proposed here is acceptable.
- 7.18 The proposal incorporates a landscaping plan which would result in hedging along boundaries and the planting of trees which would further enhance the setting of the site and the street scene. Conditions are recommended to ensure the reduction in dwelling emission rates and controls over water consumption to promote sustainable development.
- 7.19 The proposal would incorporate a high-quality design of a scale and height in keeping with the Vicarage and which would not be significantly at odds with the character of the wider area, meeting the requirements of policy CP 4 of the Swale Local Plan and the requirements of the Boughton and Dunkirk Neighbourhood Plan.

Heritage

- 7.20 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.
- 7.21 Policy DM 32 of the Local Plan states that proposals that affect a listed building, or its setting, will be permitted only where 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.
- 7.22 Policy DM 33 of the Local Plan states that new development within, affecting the setting of, or views into and out of a conservation area, will preserve or enhance all features that contribute positively to the area's special character or appearance.
- 7.23 The Boughton and Dunkirk Neighbourhood Plan sets out that in the Boughton Street Conservation Area, Objective 2 of the Plan is to preserve and enhance the area's special interest and its setting.
- 7.24 The boundary of the Boughton Street Conservation Area passes through the site, cutting through the most northerly proposed dwelling. A number of listed properties are located within the wider area with the closest being the Red Lion public house and 142 The Street, both Grade II listed, lying approximately 40m and 60m from the application site. Due to the intervening buildings between these properties and the site there is very limited visibility ensuring that these buildings settings would not be adversely impacted upon.
- 7.25 The Boughton Street Conservation Area Character Appraisal and Management Strategy amongst other matters identifies the significance of the heritage asset and highlights particular issues and features which detract from the character and appearance of the Conservation Area.
- 7.26 The Council's Conservation Officer was consulted on the proposal, noting that both The Vicarage and the adjacent bungalows at the northern end of Arthur Kennedy Close make a neutral contribution to the Conservation Area and that Arthur Kennedy Close is a pleasant but otherwise unremarkable residential development with little historic or architectural merit in comparison to other parts of the conservation area and wider village.
- 7.27 The site comprises predominantly of open grass, forming part of the rear garden of The Vicarage. The proposed development of this site within the cul-de-sac with appropriately designed dwellings would ensure that the character of the Conservation Area would be retained and would not have an adverse impact upon the setting of the adjacent listed buildings. The Conservation Officer as a result did not object to the proposal. Conditions were recommended in respect of the materials and specific design related elements of the scheme which have been included below. The Conservation Officer has also requested removal of permitted development rights. These rights would already be restricted for the most northly located dwelling as it is partly in the conservation area.

However, a further removal of permitted development rights is not considered reasonable and as such this has not been recommended.

- 7.28 In light of the above, the proposal is considered to be in accordance with policy DM32 and DM33 of the Local Plan.
- 7.29 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

- 7.30 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, in an unreasonable loss of privacy, in an unreasonable loss of outlook or in excessive noise or odour pollution.
- 7.31 The proposal would erect two detached dwellings to the rear of The Vicarage and to the north of No. 12 Arthur Kennedy Close. The proposal would not possess any side windows ensuring no direct overlooking of these neighbours. The Vicarage would be sited 11m to the north of the nearest proposed dwelling which would provide a sufficient separation distance to ensure an acceptable outlook from the rear of this property and that property would still retain an appropriately sized garden.
- 7.32 The proposed dwellings would be located to the north of No. 12 Arthur Kennedy Close. The closest proposed dwelling would extend marginally beyond the front building line of this property but due to the separation distance would not give rise to any significant harm in respect of overshadowing or a loss of light. The closest proposed dwelling would not extend beyond the rear of No.12 Arthur Kennedy Close and as such there would be unacceptable impacts in this regard.
- 7.33 The rear of the properties would face toward the rear garden of No.99 The Street. The distance from the properties to the closest part of the rear garden of this neighbouring property would be approximately 11m, however, large parts of the neighbouring garden would be separated by a distance considerably in excess of this. Due to the proposed properties being at a 90 degree angle to the rear of No.99, it is not considered that there would be opportunities for harmful levels of overlooking between rear windows of this existing property and those proposed.
- 7.34 Nos. 4 and 5 Arthur Kennedy Close on the opposite side of the highway would face towards the application site. At the closest point these properties would be separated by a distance of approximately 20m. Although the proposed dwellings are two storey in scale with those facing the site single storey, due to the distance involved and given that a highway separates the dwellings the relationship would not give rise to harmful levels of overshadowing or a loss of privacy.
- 7.35 It is not considered that the erection of two new dwellings within this location would result in an adverse impact upon neighbours' amenities from noise and to protect resident's

amenities during the build, a Construction Management Method Statement condition and hours of works conditions are recommended.

- 7.36 In conclusion it is considered that the proposal would not have an unacceptable impact upon the living conditions of existing occupiers.
- 7.37 In terms of future occupiers of the dwellings, the proposed dwellings meet the national space standards for properties of this size and both have appropriately sized rear gardens.
- 7.38 On the basis of the above the scheme is in accordance with policy DM14 of the Local Plan.

Transport and Highways

- 7.39 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.”

- 7.40 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.”

- 7.41 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.
- 7.42 Local Plan Policy DM 7 and policies H8 and T3 of the Boughton and Dunkirk Neighbourhood Plan states that parking requirements in respect of any new proposed developments should be in accordance the Councils vehicle parking standards SPD.
- 7.43 The proposal would incorporate three parking spaces for the four-bedroom property and two parking spaces for the three-bedroom property. Swale Borough Councils Parking Standards SPD sets out that for properties with 3 bedrooms in a suburban area that 2-3 spaces should be provided and for a 4 bedroom property, 3+ spaces. The scheme therefore complies with the Council's Parking SPD and the Boughton and Dunkirk Neighbourhood Plan. The proposal does not incorporate a designated visitor parking space however there would be sufficient room for a visitor to park on the respective drives.
- 7.44 The proposal through providing two new accesses onto Arthur Kennedy Close would result in the loss of the ability for approximately two to three cars to be able to park on the highway. However, in carrying out a site visit it was identified that whilst there were cars parked on the highway, that there were spaces available within the Close with further parking available within the wider local streets.
- 7.45 KCC Highways were consulted on the proposal. However, the application did not meet the criteria for which they would respond. The addition of two additional dwellings would not result in an increase in car numbers on local roads that would adversely impact upon highway safety.

- 7.46 In summary it is concluded that the scheme would be in general accordance with DM7 of the Local Plan and policies H8 and T3 of the Boughton and Dunkirk Neighbourhood Plan.

Archaeology

- 7.47 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.
- 7.48 Policy DM 34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.
- 7.49 The northern part of the site lies within an Area of Archaeological Potential. KCC Archaeology were consulted on the proposal and noted that due to the proximity of the site to what was the main Roman road between the Kent coast and London that there is archaeological potential.
- 7.50 It was therefore recommended that if permission were to be granted that a condition be imposed to ensure that any features of archaeological interest are examined and recorded. This condition is included below and as a result the scheme is in accordance with policy DM 34 of the Local Plan.

Ecology

- 7.51 The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by policies CP 7 and DM 28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 7.52 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.'
- 7.53 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".

- 7.54 In terms of the Local Plan policy DM 28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.55 The site lies within 6km of The Medway Estuary and Marshes Special Protection Area (SPA), a European designated site which has been afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
- 7.56 SPAs are protected sites classified for the prevalence of rare and vulnerable birds and for regularly occurring migratory species on the site. Article 4(4) of the Birds Directive (2009/147/EC) requires steps to be taken by the relevant authorities to avoid activities on the site which are likely to result in pollution or in the deterioration or disturbance of bird habitat.
- 7.57 It is acknowledged that the proposed development has potential to increase footfall to the area, which has the potential to result in a degree of harm to the SPA. A fee of £328.27 will be sought for each dwelling prior to the grant of planning permission to mitigate this harm and an appropriate assessment is set out at the end of this report.
- 7.58 The Environment Act 2021 introduced mandatory biodiversity net gain (BNG), although confirmed that BNG only applies to applications made on or after 12 February 2024 and for 'small development' – which would apply to this development – after 2 April 2024. This application was made prior to either of these dates.
- 7.59 However, policy E8 of the Boughton and Dunkirk Neighbourhood Plan requires a minimum level of at least 10% Biodiversity Net Gain (BNG) for proposed new developments and during the course of the application Officers informed the agent of this policy requirement. A response was received setting out that in the agent's view Government guidance was clear that decision makers should not give weight to local policy which requires biodiversity net gains for development which was exempt from being required to do so.
- 7.60 As a result of the situation as described above, Counsel advise was sought by Officers in respect to whether the BNG, as required by the Boughton and Dunkirk Neighbourhood Plan was required. The legal view received was that the Government guidance, worded as below, did relate to this development as it was exempt under the statutory framework.
- "Decision makers should generally not give weight to local policy which requires biodiversity gains for types of development which would now be exempt under the statutory framework."*
- 7.61 On this basis the legal advice concluded that the agent's interpretation was correct. As such, it is not considered that weight, in terms of this specific proposal, can be given to the requirements of policy E8 of the Boughton and Dunkirk Neighbourhood Plan and failure to comply with it could not substantiate a reason for refusal.
- 7.62 The site comprises of closely cut grass ensuring that there would not be an adverse impact upon biodiversity and would not require a preliminary ecological survey as confirmed by KCC Ecology. Ecological enhancements (which would not amount to a minimum fixed percentage increase due to the matter set out above) have been recommended via condition which is an approach accepted by KCC Ecology and this is included below.

- 7.63 In respect of planting, a detailed landscaping scheme has been provided, which KCC Ecology have commented as being acceptable. The landscaping scheme includes trees, hedgerows and shrubs which are considered to be appropriate for this site in terms of layout and number.
- 7.64 A neighbour has noted that the applicant does not own all the fences within which hedgehogs highways are being proposed however their inclusion solely within the fences within the applicants control would still be beneficial to ecology. On the basis of the above it is considered that the scheme would be in accordance with policy DM28 of the Local Plan.

Other Matters

- 7.65 Although a number of the matters raised by the comments set out above have been addressed in the assessment above, of those that remain they are responded to as follows. Concern has been raised regarding the removal of trees within the rear garden of The Vicarage prior to the submission of this application, however from the information available the trees that were removed lay outside of the Conservation Area and were not covered by Tree Preservation Order ensuring that any felling was lawful. The issue of subsidence on site is a matter that would be addressed through Building Control regulations. Any agreement by the Diocese to restrict future development on site would be a legal matter outside of the remit of the planning process. Each planning application is considered on its own merits and accordingly if granted the current proposal would not set a precedent for future development. The property is not formally listed as an Asset of Community Value. Residential gardens within built-up areas do not represent previously developed land although this does not automatically exclude the site from development. The Swale Local Plan supports the development of windfall sites within existing settlements for homes which this site would represent. Two rounds of consultation were made to the properties surrounding the site, a site notice was posted and an advert placed in the Press ensuring that consultation was made with neighbours in accordance with the Council's statutory requirements. The outcome of where profits from the development reside are not a planning issue. The proposed planting of trees adjacent to a BT pole would be a matter for the applicant to agree with BT. The addition of two new dwellings would have a minimal impact upon local infrastructure. The application site lies within flood zone 1 (i.e. an area with the lowest probability of flooding).

Conclusion

- 7.66 The proposal would add two dwellings within the built confines of Boughton under Blean which would not have an unacceptable impact upon the street scene, conservation area, adjacent listed buildings, local amenities, highway safety, biodiversity or flooding.
- 7.67 On the basis of the above, it is recommended that planning permission be granted, subject to the conditions below and securing a SAMMS payment for the two new dwellings.

Conditions

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

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

- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: A1652-09 P3, A1652-10 P3, A1652-11 P3, A1652-20 P4, A1652-21 P4, A1652-100 P3, A1652-101 P3, A1652-200 P2, A1652-201 P2, 0656-24-B-1 LPP, A652-300 P1.

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

- 3) To assess and mitigate the impacts of development on significant archaeological remains:
 - i) 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.
 - ii) 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.
 - iii) The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.
 - iv) 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.
 - d. 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.

- 4) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

- 5) 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.

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

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

Reasons: In the interests of residential amenity.

- 7) No development beyond the construction of foundations shall take place until the following information has been submitted to and approved in writing by the Local Planning Authority.

- i. Samples and/or details of the specific clay facing bricks (including contrasting bricks for window headers), clay wall hanging tiles, weatherboarding and plain clay roof tiles (including ridge and hip tiles) and front parking area surface treatment(s) to be used (which shall be a permeable material).
- ii. Manufacturer/supplier colour brochure and technical data sheet details of specific timber composite external doors to be used.
- iii. Manufacturer/supplier colour brochure and technical data sheet details of specific uPVC windows, which shall have a flush (not stormproof profile) to be used.

- iv. Details of the cills to be used for the windows (which shall be manufactured from reconstituted stone).

Reason: In the interest of visual amenity and to preserve the character and appearance of the conservation area.

- 8) The rainwater goods to be used shall have a black cast iron effect finish and shall be installed in accordance with the profiles shown on drawing no. A652-300 P1.

Reason: In the interest of visual amenity and to preserve the character and appearance of the conservation area.

- 9) The dwellings hereby approved shall not be occupied until one electric vehicle charging point has been installed for each dwelling as shown on drawing A1652-09 P3.

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

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

Reason: To encourage the use of electric vehicles, in the interests of climate change and reducing pollution.

- 10) The scheme of tree planting and landscaping within the application site shown on drawing no. 0656/24/B/1 shall be carried out within 12 months of the completion of the development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

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

- 11) No development beyond the construction of foundations shall take place until a biodiversity enhancement plan has been submitted to and approved in writing by the Local Planning Authority, which shall include 2 integrated bird boxes and 2 integrated bat boxes to be installed upon the dwellings hereby approved. The approved plan will be implemented within 12 months of the completion of the development and shall be maintained thereafter.

Reason: In the interest of biodiversity enhancement and protection.

- 12) The dwellings hereby approved shall be constructed and tested to achieve the following measure:

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

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

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

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

Reason: In the interests of water conservation and sustainability.

- 14) The area shown on drawing A1652-09 P3 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 occupation of the dwelling(s) 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.

- 15) Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no gates, fences, walls or other means of enclosure shall be erected or provided in advance of any wall or any dwelling fronting on a highway.

Reason: In the interests of visual amenity.

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

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

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

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

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

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

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

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

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

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

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

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

The Council's approach to the application

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

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

INFORMATIVES

KCC Highways

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

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.

Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

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

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

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



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PLANNING COMMITTEE – 6 AUGUST 2024

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 23/505783/FULL		
PROPOSAL Subdivision of existing first floor flat to create 2no. flats, including erection of a first floor side extension with 2 no. dormers and rear roof extension with associated external staircase. Demolition of existing lean-to and pergola, and erection of a single storey side extension to provide public house snack bar.		
SITE LOCATION Dickens Inn, Fourth Avenue, Eastchurch, Kent, ME12 4EW		
RECOMMENDATION Delegate to the Head of Planning to refuse planning permission		
APPLICATION TYPE Minor		
REASON FOR REFERRAL TO COMMITTEE Eastchurch Parish Council support the application.		
Case Officer Megan Harris		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Mr & Mrs B Trask AGENT Refine Architecture
DATE REGISTERED 26/01/24	TARGET DATE 22/03/24	
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted Supporting Statement Revision A dated May 2024 (uploaded on 22/05/24) 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=S60BTFTYKZR00		

1. SITE LOCATION AND DESCRIPTION

1.1 The site is located on the south-western side of Fourth Avenue by the junction with Warden Road, which is in the northern part of Eastchurch on the Isle of Sheppey. The site contains a

public house, which occupies the ground floor, with a residential flat provided within the roof space above. There is a snack bar on the eastern side of the building, which operates in association with the public house and includes a covered seating area for customers.

- 1.2 The land associated with the application site (included within the blue-line boundary) to the south side of the public house includes a car park, pond and open space with outdoor seating for customers. There is also an empty plot of land to the south west of the Dickens Inn (also within the applicant's ownership) which recently gained consent for the erection of four holiday lets – as referenced in the Planning History section below.
- 1.3 The adjoining land to the north and west of the Dickens Inn is used for caravan parks and holiday lets, with sporadic residential development located to the east and south along Warden Road. Warden Road is formally designated as a rural lane defined by policy DM 26 of the Local Plan.
- 1.4 The site lies outside any built up area boundary and is therefore considered to lie in open countryside. It is within a holiday park area, as defined by policy DM 4 of the Local Plan.

2. PLANNING HISTORY

- 2.1 **23/504769/FULL** – Planning permission granted on 19.12.2023 for 'Erection of 4no. semi-detached holiday cottages with solar panels, associated access, parking and amenity spaces.'
- 2.2 **21/504668/FULL** – Planning permission refused on 12.11.2021 for 'Erection of 6no. holiday let cottages, with associated access, parking and landscaping.' Application also dismissed on appeal.
- 2.3 **SW/14/0284** – Planning permission granted on 25.04.2014 for 'Erection of a timber sectional building for use as snack bar.'

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks planning permission for the subdivision of the existing first floor flat to create two flats, including the erection of a first floor side extension on the western side of the building with two dormer windows and rear roof extension with associated external staircase.
- 3.2 The proposed first floor side extension will be situated above an area of existing flat roof and will have a depth of 11m and a width of 3.8m. It will have a pitched roof that matches the eaves and ridge height of the main roof on the building, and will contain two dormer windows, one each in the front and rear elevations, which match the scale and design of the existing dormer windows on the property.
- 3.3 A rear roof extension is also proposed to the northern roof slope to facilitate the creation of independent access to the two flats via an external staircase. The design of this rear roof extension was altered during the course of the application to address design concerns. Initially a flat roof extension was proposed, however this was changed to a dual pitched roof design.

- 3.4 Internally, the extensions will facilitate the creation of a one bedroom flat and two bedroom flat, both with open plan kitchen and living areas, resulting in an uplift of one residential dwelling at the site.
- 3.5 The application also proposes the demolition of the existing lean-to structure and pergola located on the eastern side of the property, which currently contains the snack bar, and replacement with a single storey side extension. The extension will have a depth of 8.4m and a width of 6m and will feature a monopitch roof with an eaves height of 2.3m and a maximum height of 3.9m. The extension will be divided internally to provide a snack bar with a seating area and kitchen.

4. CONSULTATION

- 4.1 Three rounds of consultation with neighbours and the Parish Council has been undertaken, due to a change to the description to more accurately describe the development and an alteration for the rear roof extension. A site notice was also displayed at the site. No comments from neighbours have been received.
- 4.2 Eastchurch Parish Council support the application for the following reasons:

Comment	Report reference
The site is sustainably located.	See paragraphs 7.4 – 7.15
The proposal doesn't affect the landscape of the area.	See paragraphs 7.22 – 7.26
The development will not have any impact upon the character and appearance of the local area.	See paragraphs 7.22 – 7.26
The access is suitably designed.	See paragraph 7.36
There is a suitable level of parking.	See paragraph 7.37

5. REPRESENTATIONS

- 5.1 **Mid Kent Environmental Health** – Recommend an informative is imposed relating to the Mid Kent Environmental Code of Practice to control any noise and dust arising from the construction phase and also suggest a condition requiring the submission of a noise assessment and scheme of insulation due to the location of the proposed flat above a pub.

6. DEVELOPMENT PLAN POLICIES

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

- ST 1** Delivering sustainable development
- ST 3** The Swale settlement strategy
- 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** Good design
- CP 7** Conserving and enhancing the natural environment
- DM 3** The rural economy
- DM 4** New holiday parks or extensions to existing parks
- DM 6** Managing transport demand and impact
- DM 7** Vehicle parking
- DM 12** Dwellings for rural workers
- DM 14** General development criteria
- DM 16** Alterations and extensions
- DM 19** Sustainable design and construction
- DM 26** Rural Lanes
- DM 28** Biodiversity and geological conservation

6.2 **Supplementary Planning Guidance/Documents**

Supplementary Planning Document - Swale Parking Standards
Nationally Described Space Standards

7. ASSESSMENT

7.1 This application is reported to the planning committee because the recommendation to refuse the application conflicts with a written representation received from Eastchurch Parish Council who support the proposal. Considering the proposal that has been submitted, the committee is recommended to carefully consider the following main points:

- The Principle of Development
- Character and Appearance
- Transport and Highways
- SPA Payment
- Ecology

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.

Principle of Development: Creation of an additional residential unit

Swale Settlement Strategy

- 7.4 Policy ST1 of the Local Plan requires that all development proposals will accord with the Local Plan settlement strategy.
- 7.5 Local Plan Policy ST3 sets out the Council's settlement strategy, which at Part 5 states the following: *"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."*
- 7.6 The site is located outside of any built-up area boundary. The nearest settlement is Eastchurch, which is located approximately 1km to the south-west. There is a clear and extensive separation of the site and surrounding caravan / holiday park from the settlement area of Eastchurch, including intervening agricultural fields.
- 7.7 Paragraph 4.3.20 of the Local Plan, which supports Policy ST3, identifies Eastchurch as a rural local service centre. The supporting text description of Eastchurch states *"The village serves the needs of local residents, but also the nearby prisons and holiday population. Its open and elevated position within the surrounding landscape and less accessible location to the main centres of population, limit opportunities to minor development aimed at meeting local needs."*
- 7.8 The proposed subdivision of the existing flat on site would result in an intensification of the existing residential use on the site. Although this would only result in one additional dwelling, the site is in a remote countryside location and characterised by the adjoining holiday / caravan park and surrounding rural landscape. As such, the additional dwelling unit would erode the intrinsic values of the countryside location contrary to Swale's settlement strategy as set out in Policy ST3.
- 7.9 Chapter 5 of the NPPF deals with the delivery of a sufficient supply of homes in the UK. Paragraph 83 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Officers consider that the proposal would not enhance the vitality of the rural community and, as such, the proposal is not supported by this part of the NPPF.
- 7.10 The proposal therefore fails to accord with Local Plan Policies ST1 and ST3 and is not supported by national planning policy. The principle of the creation of a new dwelling unit is therefore not supported by the Development Plan.

Sustainability of the Location

- 7.11 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner.
- 7.12 Policy CP2 of the Local Plan seeks to locate development in areas which minimise the need to travel and to facilitate sustainable transport.
- 7.13 As established above, the site is located outside any built-up area boundary, and therefore falls within the lowest, least acceptable tier of the settlement hierarchy, as set out by Local Plan policy ST 3.
- 7.14 The site is located approximately 1km (as the crow flies) from the built-up area of Eastchurch. There are some facilities within Eastchurch, including a church, primary school, doctor's surgery, convenience stores and pubs. However, it is considered that residents would need to travel outside of the area to access a larger variety of services and facilities. Public transport links in Eastchurch are only comprised of limited bus links to Sheerness. To access Eastchurch, future occupants would be required to walk approximately 1.6km from the site, along Warden Road. There are no footpaths along the majority of Warden Road, which is largely unlit. Due to this, it is extremely likely that future occupiers of the new flat would predominantly use a private car for their day-to-day activities due to the difficulty in safely accessing the facilities and transport links in Eastchurch on foot or by sustainable travel methods. Policy CP 2 of the Local Plan seeks to minimise the need to travel and promote use of sustainable transport. As future residents would rely to a considerable extent on the private car to access services and facilities, the scheme would be contrary to this policy.
- 7.15 As such, the distant location of the site from services and facilities makes this an unsustainable location. It is therefore not considered suitable for a new dwelling and with particular regard to minimising travel and promoting sustainable travel options it is found to be contrary to policies CP 2 and ST 3 of the Local Plan which seeks, amongst other matters, to support the aims of sustainable development, and adhere to the Council's settlement strategy.

Dwellings for Rural Workers

- 7.16 Both the Local Plan and the NPPF make clear that to promote sustainable development in rural areas, new isolated homes should be avoided, except in special circumstances, such as to meet an essential need for a rural worker to live permanently at or near their place of work in the countryside.
- 7.17 Policy DM 12 of the Local Plan (which relates to dwellings for rural workers) states that:

“Planning permission will be granted for new, permanent, rural worker dwellings in the countryside, subject to:

- 1. There being a clearly established, existing, essential need for the proper functioning of the enterprise for a full-time worker to be readily available at most times;*
- 2. There being no suitable existing dwelling available nearby or in a nearby settlement;*

3. The location, scale and design of the dwelling maintaining or enhancing landscape and countryside character; and

4. The siting of the dwelling should, firstly, explore whether there are suitable buildings available for conversion at the enterprise, or secondly, in the case of a demonstrated need for a new building, that it is located as close as possible to existing buildings on previously developed land at the enterprise, or if this is not possible, within the immediate locality on an acceptable site.”

7.18 In this case, the supporting statement provided by the agent during the course of the application sets out that new flat will be occupied by the applicant’s grandchildren, and they will assist the applicants in the day-to-day operation of the pub. Given the rural location of the site and the stated link of the new dwelling to the operation of the pub, policy DM12 is relevant to this case. It is not considered, however, that this link amounts to an exceptional circumstance. It is common for an operator of a public house to live on site, however officers disagree that this justifies the need for an additional dwelling to be located on site. The operation of a pub is also not considered to require all workers to be readily available on site due to the nature of the business, and as such the proposed occupation of the new flat by the applicant’s grandchildren is not considered to weigh in favour of the development in regard to Local Plan policy DM12.

Conclusion on Principle of creation of a new dwelling unit

7.19 The provision of a new flat in an unsustainable location such as this conflicts with Local Plan policies ST 1, ST 3 and CP 2 as set out in the above paragraph, and there are no exceptional circumstances that would outweigh this harm. Furthermore, the support offered by policy DM12 for the provision of dwellings in rural areas is not considered to apply in this instance. Therefore, the principle of the new dwelling unit is unacceptable.

Principle of Development: Extensions to existing public house

7.20 Local Plan Policy ST6 sets out the Council’s strategy for the Isle of Sheppey. It states at Part 2 that development should support the existing tourism offer or assist its modernisation and diversification into new markets, including eco-tourism. Policy DM3 supports the sustainable growth and expansion of business and enterprise in the rural area.

7.21 The proposed side extension will regenerate the existing snack bar part of the public house and will support the ongoing function of the pub. As such, it is in general accordance with policies ST 6 and DM 3 of the Local Plan, which supports the sustainable growth and expansion of business and enterprise in the rural area. The principle of this aspect of the development is therefore considered to be acceptable.

Character and Appearance

7.22 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.

7.23 The site is not located within any protected landscape area and is surrounded by developed land to the north, east and west. The proposal will result in additional built form at the site,

however it is subservient in nature and only marginally increases the footprint of the building when taking into account the existing lean-to will be demolished as part of the development. The proposed first floor side extension will match the roof form of the main roof, including dormer windows, which ensures the extension assimilates well with the existing building.

- 7.24 The design of the rear roof extension was altered during the course of the application to address design concerns. A large rear roof extension was initially proposed to provide access to the two flats, and due to the proposed use of a flat roof on this structure, it would have had the appearance of a large flat roof dormer, which would be incongruous to the appearance of the existing building. Amended plans were provided replacing the flat roof with a dual pitched gable roof extension. Whilst this has increased the bulk of the extension, it is considered to represent an improved design that would compliment the pitched roof forms on the existing roof and pitched roof dormer windows.
- 7.25 Views of the development from Warden Road, a designated rural lane will be possible, however given the development is of a subservient scale that sits comfortably on the existing building, the proposal will not cause any significant harm to the character of the rural lane.
- 7.26 Taking the above into account, in respect of the character and appearance of the proposal the scheme is considered to comply with policies CP 4, DM 14 and DM 26 of the Local Plan and the NPPF and will not give rise to harm to the character and appearance of the site, streetscene and wider countryside.

Living Conditions

Existing residents

- 7.27 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.28 The proposed extensions will lie a minimum of 48m from the closest dwellings to the south, east and west, Sunnymede, Berryfield and 1 Hazeldene Cottages. Due to these separation distances, any impact to amenity at these properties will be limited. To the rear of the site is Copperfield Caravan park, which features a mixture of caravans and brick built chalets. The closest chalets lie approximately 11.5m from the extensions, and taking into account this distance and the orientation of the chalets in relation to the development, it is not envisaged that the development will cause any unacceptable harm to the occupiers of the holiday accommodation through overshadowing or overbearing impacts. There will be additional fenestration in the front, rear and side elevations as a result of the changes to the first floor, however these windows will provide views of the holiday accommodation that are similar to the existing windows.
- 7.29 Planning permission has been granted for the erection of four holiday units to the south west of the site, on land also owned by the applicant. Whilst this permission has not been implemented yet, it remains extant and the impact of the development upon these units must be considered. The proposed extensions will lie a minimum of 28m from the holiday units, and taking into account this distance, it is not envisaged the development will cause any harm to future occupiers of these units.

- 7.30 The development also proposes to extend the commercial floorspace at the site, through the creation of a formal snack bar. Given the existing use of the unit as a pub, the provision of a snack bar which will be ancillary to the pub use is not considered to result in any significant noise and disturbance to neighbours.

Future residents

- 7.31 New development is expected to offer future occupiers a sufficient standard of accommodation. The extended and reconfigured first floor will provide two flats, both of which accord with the Government's national space standards. All habitable rooms are served by windows which will provide adequate outlook, light and ventilation. There will be no private amenity space provided for the new flat, but taking into account the scale of the new flat, it is unlikely that it will be occupied by a family and as such, the lack of amenity space is not of considerable concern here. Furthermore, there are extensive areas of open space available on the wider site and opportunities to access green space in the wider area.
- 7.32 Taking the above into account, the scheme is considered to be acceptable and would not cause any substantial harm to the living conditions of neighbours or future occupiers. As such the proposal is accord with Policy DM 14 of the Local Plan in this regard.

Transport and Highways

- 7.33 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.”

- 7.34 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.”

- 7.35 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. SBC Vehicle Parking Standards Supplementary Planning Document (SPD) which is pursuant to Policy DM 7 of Local Plan was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications.
- 7.36 The development will utilise the existing access onto the site from Fourth Avenue. Whilst there will be additional vehicle movements created by the development through the creation of the additional flat, this would be minimal, and as such the proposal will not have any harmful impacts on the wider road network.

- 7.37 The existing parking area to the front of the building will provide parking for the new flat and snack bar. Given the scale of this area, which provides parking for approximately 17 vehicles, the development is not considered to lead to additional parking along Fourth Avenue or Warden Road given the scale of the car park at the site. As a result the proposal complies with policy DM 7 of the Local Plan.

SPA Payment

- 7.38 An Appropriate Assessment is set out below. Since this application will result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development, there is no scope to provide on-site mitigation and therefore off-site mitigation is required by means of developer contributions at the rate of £328.27 per new dwelling. As the development will result in an uplift of one dwelling at the site, only one fee is required. This payment has not been secured due to the recommendation to refuse the application. As such, the proposal would currently fail to mitigate against harm to the SPA and Ramsar sites and would fail to accord with Policies CP7 and DM28 of the Local Plan in this regard.

Ecology

- 7.39 The NPPF and Local Plan policy DM28 requires that development proposals will conserve, enhance and extend biodiversity, provide for net gains in biodiversity where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.40 Applications submitted from 2nd April 2024 which propose minor developments are required to provide at least 10% Biodiversity Net Gain (BNG). Whilst this application does amount to minor development, the application was notably submitted in January 2024 and as such, there is no requirement for BNG to be provided as part of the development. Due to the nature of the proposal it would not result in any other ecological impacts. As such, the proposal would comply with policy DM 28 in this regard.

Other Matters

- 7.41 At the recommendation of the Environmental Health team, if permission were to be granted, an informative would be imposed relating to the Mid Kent Environmental Code of Practice, which will mitigate any noise and dust issues from the construction phase. A condition related to the submission of a noise assessment and scheme of insulation would also be imposed to ensure that the activities of the pub and snack bar are not harmful to the new flat to be created on the floor above.

Conclusion

- 7.42 The site is located in the open countryside, in an unsustainable location for new residential development. Future occupiers of the development would be highly reliant on private cars, which is contrary to the general aims of policy CP 2. The agent contends that the development is required in order for the applicant's grandchildren to live at the site and help with the operation of the pub. However, this is not considered to justify the need for an additional dwelling on the site and as such this does not represent an appropriate exception

to the general restriction on new dwellings in unsustainable countryside locations. Whilst the regeneration of the existing snack bar at the site will continue to support the on-going function of the pub, this benefit does not outweigh the harm caused by the provision of a new residential unit in an unsustainable location.

- 7.43 The Council has very recently received an appeal decision at Ufton Court Farm in which an Inspector concluded that the Council did not have a 5 year housing supply. The Council is considering its position on this decision. However, even if this application was to be considered using the “tilted balance” under paragraph 11(d) of the NPPF, the harm arising as set out above would significantly and demonstrably outweigh the benefits associated with the provision of an additional dwelling, and would conflict with the NPPF as a whole.
- 7.44 Furthermore, a SAMMS mitigation fee has not been secured as part of the application in order to address the impact of the additional residential unit on the SPA. On this basis, it is recommended that planning permission be refused.

RECOMMENDATION – Refused for the following reasons:

- (1) The application site lies outside of any defined settlement boundary and in an unsustainable location remote from services and facilities and where policies of rural restraint apply. The proposal would result in an unsustainable development where future occupiers of the new residential unit would be highly reliant on private vehicles. The proposal is therefore contrary to policies ST 1, ST 3, CP 2 and DM 12 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017.
- (2) The proposed development will create potential for recreational disturbance to the Swale Special Protection Area. The application submission does not include an appropriate financial contribution to the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy (SAMMS), or the means of securing such a contribution, and therefore fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site and would be contrary to the aims of policies ST 1, CP 7, DM 14, and DM 28 of the adopted Swale Borough Local Plan 2017; and paragraphs 180, 181 and 187 of the National Planning Policy Framework.

The Council’s approach to the application

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

