

PLANNING COMMITTEE – 10 January 2019

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM 1 REFERENCE NO - 17/500727/OUT			
APPLICATION PROPOSAL			
Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved), as amended by drawings received 31/05/2017 and further amended by drawings received 9 November 2017			
ADDRESS Manor Farm Key Street Sittingbourne Kent ME10 1YU			
RECOMMENDATION Grant subject to conditions and the signing of a suitably-worded Section 106 agreement.			
SUMMARY OF REASONS FOR RECOMMENDATION			
Site is allocated for residential development in Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Policy A21) and the proposal is in accordance with national and local planning policy.			
REASON FOR REFERRAL TO COMMITTEE			
Deferred for a second time, as Members required clarification and further information in respect of air quality. This report addresses this matter.			
WARD Borden And Grove Park	PARISH/TOWN Borden	COUNCIL	APPLICANT Balmoral Land (UK) Ltd AGENT
DECISION DUE DATE 13/06/17	PUBLICITY EXPIRY DATE 30/08/17	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
As noted on original report			

1.0 INTRODUCTION

1.01 Members will recall that this application was originally reported to the Planning Committee on 17 August 2017. After some discussion in which Members raised some concerns about the proposal, and requested further information, the item was deferred to allow Officers time to provide that information to a future meeting of the Committee. Please note that the original report is attached as Appendix 1. The minute of the meeting is attached as Appendix 2.

1.02 Members requested further information with regard to any requirement for the site to provide a source of brick-earth, as the site is identified for brick earth extraction prior to development in the Kent Minerals and Waste Local Plan (KMWLP) (adopted April 2017). These matters were resolved, and the application was again referred to the committee meeting of 16th August 2018. The report is attached as Appendix 3.

- 1.03 At that meeting the Environmental Protection Team Leader advised that air quality levels in Swale were measured against Government standards in locations where traffic flows were highest, and Swale already monitored air quality more than any other authority in Kent. He added that extra monitoring was taking place in and around the proposed site, but at least 12 months monitoring data would be needed before knowing what the levels were in this vicinity. The Environmental Protection Team Leader drew attention to the fact that the equipment used by Borden Parish Council in their air quality measuring was not certified and that the monitoring periods used were too short to be accurate and comparable with that carried out by the Council.
- 1.04 After some debate, Members resolved that application 17/500727/OUT be deferred for 12 months to allow the air quality monitoring in the area to be carried out and the data considered. The minute is attached as Appendix 4.

2.0 THIS REPORT

- 2.01 This update report addresses the above issue, and presents new information for Members to assess when deciding this application. The new report should be read in conjunction with the original report, attached as Appendix 1, which – among other things - describes the site, the proposed development, the policy context, and the consultation responses that had been received at the time of writing. The new report should also be read in conjunction with the report which was submitted to the meeting of the Planning Committee on 16th August 2018 (see Appendix 3).
- 2.02 My Officers noted the concerns expressed by Members regarding Air Quality (AQ) issues, and decided to commission an assessment by an independent AQ consultant. At the same time, the applicant commissioned his own AQ report.
- 2.03 Whilst noting that Members had requested a deferral of 12 months to establish a set of air quality measurements, Officers were of the opinion that an independent opinion on the current air quality situation would assist Members in their deliberations and that any further delay in determining the planning application could result in the applicant appealing to the Secretary of State on non-determination grounds and potentially subjecting the Council to significant costs.
- 2.04 The following documents were sent by Officers to the consultant to assess:
- The report sent to the Planning Committee on 16th August 2018.
 - The comments and observations made by the Environmental Protection Team Leader
 - Borden Parish Council's AQ report
 - The applicant's AQ technical note
 - The AQ report accompanying the South West Sittingbourne application
- 2.05 This report should also be read in conjunction with the consultant's report, which is attached as Appendix 5.

3.0 APPRAISAL

- 3.01 The consultant's report was received on 30th October 2018. The findings and conclusions presented within the independent report are as follows:
- *'The current background air quality in the vicinity of the proposed Manor Farm and Wises Lane proposed developments are well below the AQS for all pollutants. Additionally, the proposed development locations are not within an AQMA.'*

- *The review of the Wises Lane AQA concluded that the assessment was robust and followed guidance and methodologies required for the assessment of air quality in such developments.*
- *The review of the BPC (Borden Parish Council) commissioned air quality monitoring and analysis by UoK (University of Kent) highlighted the deficiencies in the assessment and comparison of results. The study was limited to short-period measurements and these cannot be used to compare UK AQS's. Simple comparisons from 2018 to 2025 verified modelled results are not valid.*
- *The BPC statements were based on the results of the UoK study and therefore cannot be substantiated.*
- *The comments from the Council's Environmental Protection Team (EPT) Leader regarding the need for an AQA for the Manor Farm application are valid. UK (IAQM) guidance scopes out the need for an AQA following best practice criteria.'*

3.02 As such, it is clear from the report that air quality is not an issue on the basis of which this application should be refused.

4.0 ADDITIONAL REPRESENTATIONS

4.01 The Council published the AQ report on 14th November 2018. Since then, four emails of objection have been received from local residents. The views contained therein may be summarised as follows:

- *'In commissioning this review can you please explain why SBC are sponsoring the Manor Farm and Wises Lane planning application?'*
- *'The University of Kent report is the only report based on real and current data'*
- The application should be held for twelve months for SBC to collate their own measurements
- *'I strongly object to the commissioning of the Phlorum review and wish it to be removed as evidence for both planning applications'* (referring to the proposed Wises Lane development as well)
- Other developments in Sittingbourne will also increase AQ problems
- The Council should provide the University of Kent with monitoring equipment to determine their findings
- There are roadside pollution problems
- *'The Council's own AQ Report for 2018 shows that Key Street is above the legal limit, and I have Councillor Bowles confirm to me in writing that this is the case'*
- The report refers to air quality on the site itself, not to roads in the vicinity
- Takes no account of the Wises Lane development
- I fail to see how pollution has reduced in the last three years
- No monitoring site adjacent to the location
- The A2 and the A249 are at capacity
- No consideration has been given to air quality on the A249 slip road

5.0 OTHER MATTERS

5.01 The Conservation of Habitats and Species Regulations 2017 - The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly

occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

Residential development within 6km of *any* access point to the SPA has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£239.61 per dwelling on all residential developments, as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.

However, 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 (AA) solely on the basis of the agreed mitigation measures (SAMMS), and needs to progress to consideration under an AA.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the scale of development (50 houses on an allocated site at the edge of town), with access to other recreation areas) and the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff will ensure that these impacts will not be significant or long-term. I therefore consider that, 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/>)

5.02 Developer Contributions – As a reminder to Members, the Developer Contributions requested are as follows:

- **£111,744.00** towards junction improvements to the Key Street junction
- Primary Education (towards enhancement of Borden Primary School) - **£166,200.00**
- Secondary Education (towards Phase 3 of expansion of Westlands Secondary School) - **£117,990.00**
- Community Learning (towards new equipment to support additional Adult Education in the new Sittingbourne Hub) - **£3,021.35**
- Youth Service (towards additional youth facilities and equipment in Sittingbourne) - **£1,879.17**

- Libraries (towards equipment and bookstock costs of new library in Sittingbourne Hub) - **£11,350.00**
- Social Care (towards fit out costs of Sittingbourne Care Hub) - **£3,166.50**
- **£43,050.00** (£861.00 per dwelling) towards the provision of off site play equipment at Grove Park.
- **£18,000.00** towards expanding existing NHS facilities within the vicinity of the development.
- £ 239.61 per dwelling, or **£11,980.50** for 50 dwellings is required to mitigate potential impacts on the Swale Protection Area.
- **£13,200.00** towards the resurfacing and improvement of public footpath KR117.

TOTAL: £501,581.52 + an administrative monitoring fee

6.0 CONCLUSION

6.01 Following the receipt of an AQ report from the Applicant, Officers concluded that it was appropriate to commission an independent report to assess all of the relevant AQ information submitted to the Council from interested parties given the risk of the applicant appealing to the Secretary of State on grounds of non determination and the potential costs that would entail. The report does not consider any other factors other than:

- The report sent to the Planning Committee on 16th August 2018.
- The comments and observations made by the Environmental Protection Team Leader
- Borden Parish Council's AQ report
- The applicant's AQ Technical Note
- The AQ report accompanying the South West Sittingbourne application

With regard to any instruction, the only request from the Council was to assess, from the evidence provided and noted above, if there were grounds to refuse the planning application on the grounds of air quality.

6.02 The report concludes that there are no reasons to refuse the application on Air Quality grounds.

6.03 Having carefully looked at the matters raised by Members at the meetings of this Committee on 17th August 2017 and on 16th August 2018, Officers believe that all of these issues have now been resolved, and that there are no valid planning reasons upon which to refuse this application. As such, it is recommended that the planning permission for this outline application be approved.

7.0 RECOMMENDATION – GRANT Subject to the signing of a suitably-worded Section 106 agreement and the following conditions:

CONDITIONS

- (1) Details relating to the layout, scale and appearance of the proposed buildings, and the landscaping of the site, shall be submitted to and approved by the Local Planning Authority before any development is commenced.

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

- (2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

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

- (3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

- (4) Pursuant to Condition (1) above, the reserved matters application shall show no more than a total of 50 dwellings, and the dwellings shall be no more than 2.5 storeys in height

Reason: In order to comply with Policy A21 of The Swale Borough Local Plan 2017 and in the interests of safeguarding the local landscape.

- (5) Pursuant to Condition (1) above, the reserved matters application shall show only single storey dwellings in the north east corner of the site (marked on the illustrative site layout drawing no. DHA/11507/06 Rev B and the illustrative proposed storey heights plan no. DHA/11507/04 Rev B as plot numbers 35 - 39 inclusive), adjacent to the existing properties in Cherryfields

Reason: In view of the rise in the topography of the land, which would result in issues of overlooking and overshadowing to existing properties in Cherryfields, if those new properties were to be of more than one storey

- (6) The details submitted pursuant to condition (1) above shall provide full details of how the residential part of the development will meet the principles of 'Secure by Design'. The development shall be implemented in accordance with the approved details.

Reason: In the interests of public amenity and safety.

- (7) The details submitted pursuant to condition (1) above shall include cross-sectional drawings through the site, of the existing and proposed site levels. The development shall then be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development having regard to the nature of the site.

- (8) The landscaping details submitted pursuant to condition (1) shall include full details of both hard and soft landscape works including existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- (9) No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority:
1. A preliminary risk assessment which has identified:
 - a) All previous uses
 - b) Potential contaminants associated with those uses
 - c) A conceptual model of the site indicating sources, pathways and receptors
 - d) Potentially unacceptable risks arising from contamination at the site.
 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

Reason: To prevent pollution of controlled waters and comply with the National Planning Policy Framework.

- (10) No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved

verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To prevent pollution of controlled waters and comply with the NPPF.

- (11) 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 the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To prevent pollution of controlled waters and comply with the NPPF

- (12) Prior to the commencement of the development hereby approved full details of the method of disposal of foul and surface waters as part of a detailed drainage strategy shall be submitted to and approved in writing by the local planning authority. This 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 100yr storm) can be accommodated and disposed of within the curtilage of the site. The risk of ground instability associated with discharge of surface water into the underlying soils should be assessed and the infiltration rates confirmed with a suitable ground investigation.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- (13) No building hereby permitted shall be occupied until details of the implementation; maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- (14) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority (in consultation with the Environment Agency); this may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (15) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall 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 collected and disposed of via infiltration features located within the curtilage of the site.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions, and to protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (16) Development shall not begin until details are submitted to and approved in writing by Local Planning Authority (in consultation with the Environment Agency and the Lead Local Flood Authority) of measures within the drainage scheme that ensure silt and pollutants resulting from the site use can be adequately managed to ensure there is no resultant unacceptable risk to controlled waters as a result of infiltration of surface water from the development. The details shall only then be implemented in accordance with the approved details.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions, and to protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

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

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works

- The arrangements for public consultation and liaison during the construction works.

Reason: In the interests of residential amenity, highway safety and amenity.

- (18) No development shall take place until:
- a) a site investigation has been carried out to determine the nature and extent of any reptile or bat population within or adjacent to the building in accordance with the advice of Natural England
 - b) a written report of the site investigation has been prepared by a competent person. The report shall include the investigation results and details of a scheme to ensure the long-term health and well being of any reptile or owl population within or adjacent to the building. The report shall be submitted to and approved by the Local Planning Authority in writing.
 - c) the development shall then be implemented in accordance with the approved scheme

Reason: In order to safeguard protected species that may be present within or adjacent to the building.

- (19) The details submitted in pursuance of condition (1) shall show adequate land reserved for parking in accordance with the Approved County Parking Standards and, upon approval of the details this area shall be provided, surfaced and drained before any building is occupied and shall be retained for the use of the occupiers of, and visitors to, the dwellings. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

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

- (20) None of the dwellings shall be occupied until space has been laid out within the site in accordance with details to be submitted and approved in writing by the Local Planning Authority for cycles to be securely stored and sheltered.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits and to ensure that such matters are dealt with before development commences.

- (21) The construction of the development hereby approved shall not commence before the completion of the vehicular access leading from Chestnut Street as shown on drawing reference DHA_11506-T-02. Thereafter, this access shall be maintained as such in perpetuity.

Reason: In the interest of highway safety and amenity

- (22) No development shall commence until the developer has submitted drawings showing the relocation of Public Right of Way ZR117 away from the proposed estate road, avoiding steep gradients and steps. No development shall take place until such suitable drawings shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in complete

accordance with these approved drawings and fully implemented before the first occupation of any of the properties hereby permitted.

Reason: In the interests of protecting the amenity value of the existing Public Rights of Way.

- (23) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
- (1) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority before any reserved matters application has been submitted; and
 - (2) following on from the evaluation, 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.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in-situ or by record.

- (24) No development shall commence until the developer has developed a scheme detailing and where possible quantifying what measures or offsetting schemes are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The most recent DEFRA Emissions Factor Toolkit should be utilised and the latest DEFRA IGCB Air Quality Damage Costs for pollutants considered, to calculate the resultant damage cost. The report should be submitted to and approved by the Local Planning Authority, prior to development, and any mitigation sums should be included within a suitably worded s106 agreement.

Reason: In the interests of air quality management.

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

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner and to ensure that such matters are dealt with before development commences.

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

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

Reason: In the interests of residential amenity.

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

Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 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.

- (28) Prior to the commencement of development a programme for the suppression of dust during the construction of the development shall have been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity and to ensure that such matters are dealt with before development commences.

- (29) Prior to the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows:

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

Reason: In the interests of highway safety.

- (30) Within 6 months of construction commencing a detailed landscaping plan and management plan must be submitted to the Local Planning Authority for written approval. The submitted information must include the following:

- A landscape plan incorporating the ecological enhancement measures detailed within chapter 9 of the Ecology Assessment, Ethos Ecology (December 2016)
- Details of how the proposed planting will be established
- A five year rolling management plan for the site
- When habitat monitoring will be carried out
- When management plan reviews will be carried out

The measures shall be implemented in full accordance with the submitted information prior to the occupation of development.

Reason: In the interests of preserving biodiversity and visual amenity

Council's Approach to the Application

In accordance with paragraphs 186 and 187 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 proactive manner by:

Offering pre-application advice

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

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


INFORMATIVES:

- (1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>
The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such 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.
- (2) A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW, (Tel: 0330 303 0119 or www.southernwater.co.uk).
- (3) Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant.
- (4) KCC wishes to make the applicant aware that Superfast Fibre Optic Broadband 'fibre to the premises' should be provided to each dwelling of adequate capacity (internal minimum speed of 100mb) for current and future use of the buildings.
- (5) All nesting birds and their young are legally protected under the Wildlife and Countryside Act 1981 (as amended) and as such any vegetation must be removed outside the breeding bird season, and if this is not possible an ecologist must examine the site prior to works starting and if any nesting birds are recorded all works must cease within that area

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.



17/500727/OUT - Manor Farm, Key Street, Sittingbourne
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APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

REPORT SUMMARY

REFERENCE NO - 17/500727/OUT		
APPLICATION PROPOSAL Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved) as amended by drawings received 31/05/2017		
ADDRESS Manor Farm Key Street Sittingbourne Kent ME10 1YU		
RECOMMENDATION: Grant subject to the views of the Housing Services Manager; conditions as set out below; the signing of a suitably worded Section 106 Agreement; clarification in respect of open space management; and the resolution of the brick earth issue.		
SUMMARY OF REASONS FOR RECOMMENDATION: Site is allocated for residential development in Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Policy A21) and proposal is in accordance with national and local planning policy		
REASON FOR REFERRAL TO COMMITTEE: Parish Council objection; local objections		
WARD Borden And Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Balmoral Land (UK) Ltd AGENT
DECISION DUE DATE 13/06/17	PUBLICITY EXPIRY DATE 14/06/17	OFFICER SITE VISIT DATE Two separate site visits
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
App No	Proposal	Decision
SW/04/0095	Application for 27 new dwellings	Refused
SW/03/0224	Application for 39 new dwellings	Refused

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site consists of an open field, which runs alongside the old A249 Chestnut Street, which leads from the Key Street Roundabout. To the north lies the main A2 London Road, with Sittingbourne town centre a little over a mile and a half to the east. To the south there is a sizeable electricity substation; to the immediate east and north are existing residential dwellings found within Cherryfields and Dental Close.
- 1.02 The field appears to have been fallow for some while; I understand that there were originally orchards on the field, which have since been removed. The field slopes downwards quite noticeably from east to west, with a sizeable difference in levels between the eastern and western sides of the field; the lowest point is the northwest corner which has a level of 26.5m AODN (Above Ordnance Datum Newlyn; Sea level); whilst the highest point is on the southern corner, which has a level of 37.3m AODN.
- 1.03 Two public rights of way are found on or adjacent to the field; one runs north/south along the eastern boundary of the field (ZR118), and would not be affected by the proposal. The other runs east/west towards the southern boundary (ZR117), and part of the proposal is the slight re-alignment of that footpath.

2.0 PROPOSAL

- 2.01 As stated above, this is an outline application for up to fifty residential dwellings, with all matters save for access reserved for future consideration.
- 2.02 The application is accompanied by an indicative site layout which has since been amended; however, it is important in this case to remember that this is illustrative only, as the only matter, barring the principle of development, to be considered here is that of access. Nevertheless, the indicative drawings show a non-linear layout with a mix of dwelling types and sizes, all with private gardens and off-road parking
- 2.03 The dwellings are shown on the storey heights drawing as a mix of single, two and two & a half storey buildings, with illustrative drawings showing one (no.) single storey dwelling; forty-seven (no.) two storey dwellings; and two (no.) two-and-a-half storey dwellings. Fifteen would have two bedrooms; twenty-eight would have three bedrooms; and seven would have four bedrooms. Five dwellings would be allocated as affordable housing.
- 2.04 The proposed access is not the existing access to the field; that access being rather near to a bend in the road leading from Key Street towards Danaway, almost adjacent to the Key Street roundabout itself. The proposed access is situated 150 metres further southwest along Chestnut Street, to enable better sight lines from the site, which would give visibility splays of 2.4m by 53m in a northeasterly direction, and 2.4 m by 90 metres in a southwesterly direction.
- 2.05 The illustrative drawing shows 59 private open parking spaces, 25 private spaces in garages or car barns, and 10 allocated visitor parking spaces.
- 2.06 The site is situated within an area where brickearth extraction is generally required before development. This matter will be discussed later in this report.
- 2.07 The proposal is accompanied by the following documents:
 - Archaeological Assessment
 - Flood Risk Assessment
 - Landscape Assessment
 - Noise Assessment
 - Planning Statement
 - Transport Statement
 - Design and Access Statement
 - Ecology Assessment
 - Topographical Survey
 - Tree Survey

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	2.02	2.02	Nil
No. of Residential Units	Nil	Up to 50	Up to +50
No. of Affordable Units	Nil	Up to 5	Up to +5

Planning Committee Report – 17 August 2017

ITEM 2.4

4.0 PLANNING CONSTRAINTS

4.01 Allocated Site – housing development (Policy A21 of the Swale Borough Local Plan 2017)

4.02 Site of archaeological interest

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF): Paragraphs 7 (Sustainable Development), 14 (Presumption in favour of sustainable development), 47 and 50 (Delivering a range of high quality housing), 57 (High quality design) and 143 (Minerals extraction).

5.02 The Swale Borough Local Plan 2017: Policies ST1 (Sustainable Development), ST2 (Development Targets for Homes), ST5 (Sittingbourne Area Strategy), CP3 (Delivering high quality housing), CP4 (Good design) A21 (Smaller allocation sites as extensions to settlements), DM6 (Transport demand and impact), DM7 (Vehicle parking), DM8 (Affordable housing), DM14 (Development criteria), DM17 (Open space provision), DM19 (Sustainable design and construction), DM21 (Water, flooding and drainage), DM28 (Biodiversity) and DM31 (Agricultural land).

5.03 The Swale Landscape and Biodiversity Appraisal shows that the site is with the category of the Borden Mixed Farmlands. This suggests that the condition of the area is moderate, and the sensitivity of the land in question is moderate.

5.04 The site is allocated for housing under policy A21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017. The requirements of the policy will be further discussed later within this report in the 'Appraisal' section.. Policy A21 reads as follows:

- *“Lies close to the A2 Watling Street. Any planning application for development proposals on these sites will need to have considered the possibility of archaeological remains being on site.*
- *Financial contributions include those toward primary education, health and junction improvements at Key Street A249/A2.*
- *Through an integrated landscape strategy consider:*
- *The creation of a new attractive urban edge to Sittingbourne, with substantial landscaping to achieve the integration of development in a fashion that minimises its impact upon the separation of Sittingbourne with Bobbing.*
- *The assessment and, where possible, the retention of remaining orchard trees (a UK BAP priority habitat).*
- *Determine such matters as the presence of protected species, whilst retention of habitat as far as possible and mitigation will secure a net gain in biodiversity.”*
- *The policy envisages a minimum of 30 dwellings on 2.3 hectares of land*

5.05 'Developer Contributions' Supplementary Planning Document (2009).:

5.06 Clauses 4, 6 and 7 of Policy DM7 of the Kent Minerals and Waste Local Plan.

6.0 LOCAL REPRESENTATIONS

Planning Committee Report – 17 August 2017

ITEM 2.4

Twenty-six letters and emails of objection have been received from local residents. Their comments can be summarised as follows:

- *'There is a lot of information within all the supporting documents which is extremely time consuming to read, digest and understand. This makes it difficult to provide full comments for objections'*
- The land behind Cherryfields (which adjoins the northeastern corner of the site) is two to three metres higher; this would lead to overlooking and overshadowing
- Would lead to increase in traffic at the Key Street roundabout and on the A249
- Previous applications for less houses on this site were refused
- The proposal site is not in the Local Plan
- Massive increase in vehicle movements
- Increase in pollution from vehicles
- No new infrastructure: roads, schools and surgeries are at breaking point
- Bungalows and affordable homes are needed; not executive homes
- Loss of trees on boundary
- Flooding and subsidence problems
- Access too near to Key Street roundabout
- Bungalows on boundaries would be better
- Will set a precedent for development at Wises Lane
- Loss of countryside gap between Sittingbourne and Newington
- Brownfield sites are preferable for development
- Inaccuracies within the submitted Transport Statement
- Not enough parking or visitor spaces
- Loss of views
- Topography of site is very steep
- Proposed play area in dangerous position close to road
- Increase in use of public rights of way
- No safe cycle route across Key Street roundabout
- Loss of Grade I agricultural land
- Layout too dense – allocated for a minimum of 30 dwellings in Local Plan
- Adverse impact on wildlife
- Development will devalue my property
- Safety concerns regarding electricity station
- Bird and bat boxes are not as good as natural habitat

7.0 CONSULTATIONS

7.01 Borden Parish Council objects to the application and their comments read as follows:

'Lack of provision of Schools, particularly Primary Schools, accessible by sustainable transport.

Insufficient provision of Hospitals and GP services

The land itself is Grade 1 agricultural land and should be protected for Agricultural use. Uncertainty about the availability, price and quality of food within the UK arising from climate change, development of the Asian/Chinese economies and population growth has been exacerbated by the recent decision to leave the EU. Further loss of production capacity and the local economic development opportunity to construction would not be prudent.

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

Environmental pollution: The number of vehicles currently using the Key street junction, A2 and old Maidstone Road create high pollution levels during peak hours. This occurs particularly on Chestnut Street and Danaway where earth banks created to separate the A249 from residential areas now create high pollution zones because of limited air movement and queuing traffic. The development is not sustainable with regard to transport or air quality, since it will lead to further congestion on the A2, A249 and rural lanes Traffic exiting this development onto Chestnut Street will cause further congestion to an already inadequate road system. There are Highways safety concerns arising from parked commuter vehicles and HGV's adjacent to the proposed junction between the new development and Chestnut Street. No figures are supplied for actual peak hours between 05.45 and 07.00 when commuters use the routes. The A249/A2 (Key Street) roundabout is unable to cope with existing traffic at peak times which will only worsen with the Iwade and Sheppey developments. Traffic from the main Sittingbourne town and the Northern residential areas of Sittingbourne i.e. Sonara Fields, Kemsley, Iwade etc. converge on Key Street Roundabout; many drivers use Chestnut Street to try and bypass the congested areas, leading to long delays at the Stockbury roundabout and reduced safety for residents along Maidstone road. Chestnut Street is also used in times of accidents on the A249. As a consequence the whole road systems becomes blocked due to the high volume of vehicles and use of wide vehicles. This is contrary to the statement on Page 21, 6.1.5 of the Transport Statement.

Any designed road exiting onto Chestnut Street will create a rat-run for traffic trying to avoid the current bottlenecks. As a consequence, there will be a detrimental impact on the safety and quality of life for residents/public. Improvements to the Key Street Roundabout and the Stockbury Roundabout should be undertaken before any further development takes place Insufficient parking spaces; appears to be one per property?

In the past KCC Minerals and Waste have raised objections to applications in this area.

The topography of the site means that the land sits much higher than current housing abutting the boundaries. The proposed two storey properties to the rear of existing housing will in fact be the equivalent of a three-storey building.

Loss of valuable wildlife habitat: Should the Borough Council be minded to approve this application we would ask that the following be taken into consideration: Bungalows should be built to the rear of existing properties in Cherryfields any other properties impacted; this will in effect due land being higher on the site appear as two-storey buildings and will not cut out light.

We would request that an archaeological survey be carried out prior to any development owing to the history of the area.'

- 7.02 The Environment Agency raises no objection.
- 7.03 UK Power Networks raises no objection.
- 7.04 Scotia Gas Networks raises no objection.
- 7.05 The Lower Medway Internal Drainage Board raises no objection.
- 7.06 Natural England raises no objection.
- 7.07 Southern Water raises no objection, subject to the inclusion of Informatives as noted below.

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

- 7.08 Highways England acknowledges that the proposal might put pressure on the roundabout at Key Street, although they suggest that the impact would be limited. They encourage the developer to discuss the matter with KCC Highways and Transportation. Their comments are as follows:

'Having examined the above application, while we accept that the development alone will have a limited impact on the Key Street junction (A2 / A249), evidence submitted to and agreed at the Swale Local Plan Examination concluded that at times the junction is operating over capacity and going forwards we are aware that there will be a severe cumulative impact on the junction due to committed, consented and emerging Local Plan development. Therefore now and in to the future there are SRN related safety, journey reliability and operational efficiency issues that need to be addressed.

While it would be open to any applicant to propose individual mitigation, we believe it would be more sensible for there to a single co-ordinated response of the right type delivered at the right time to mitigate the cumulative impacts of all likely development. A cumulative mitigation scheme is being developed by Kent County Council and Swale Borough Council.

We therefore look forward to hearing from the applicant as to which direction they wish to take. They may wish to make their decision based upon a conversation with KCC/SBC regarding the progress of the cumulative mitigation scheme.'

- 7.09 KCC Highways and Transportation comment in full as follows:

'It is acknowledged that the proposed development does form one of the allocated sites within the Local Plan that has now been approved by the Planning Inspector and is due to be adopted within the coming days, so the principle of residential development in this location will be supported by the weight of that Plan. Consequently, the Highway Authority will work with the Applicant to agree what measures are required to accommodate the development and its impact on the local highway network.

I have reviewed the proposed trip rates used in the Transport Statement, and undertaken my own TRICS calculation using selection filters that I consider comparable to the location of this site. My calculations did derive a slightly higher generation of traffic, suggesting a further 6 movements during the AM peak and 3 more during the PM peak to give totals of 32 and 29 respectively. Over the period between 07:00 to 19:00, my analysis indicated a total of 264 vehicle movements. It is not considered that the difference between the two TRICS interrogations is a significant material difference when viewed against the existing traffic on the highway network.

The development is proposed to be accessed from a simple priority junction onto Chestnut Street, and I accept that this would be the correct design approach. The junction matrix in TD 42/95 of the Design Manual for Roads & Bridges recommends this type of road junction is used when accommodating the amount of vehicle numbers travelling along the main road and expected to be generated from the development. The position of the proposed access will be within the current national speed limit section of Chestnut Street, close to the transition point of the 30mph speed limit approaching Key Street roundabout. However, the Transport Statement suggests that the 30mph limit will be extended further south, past the proposed access, and visibility splays of 2.4m by 43m would be appropriate based on that speed. It should be noted that the extension of the 30mph limit will need to be the subject of a Traffic Regulation Order that requires consultation, and has to be considered in the road environment and other influencing factors. These are described in the DfT circular 01/2013, so it cannot be taken for granted that the proposed extension to the speed restriction will be allowed. I

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

therefore believe that it would be more appropriate to provide sightlines at the proposed junction based on measured speeds at this location.

Notwithstanding the above uncertainty regarding vehicle speeds, it is demonstrated by the drawing provided in Appendix E (of the Transport Assessment) that visibility splays of at least 2.4m by 90m to the southwest, and 2.4m by 87m to the northeast of the junction are generally available, and splays far in excess of these are achievable due to the extent of the highway land that could be used to facilitate longer sightlines. I am therefore content that appropriate sightlines can ultimately be provided for the proposed access, and these can be secured through the technical approval process associated with the Section 278 Highway Agreement that will have to be entered into by the developer to permit construction of the new junction and any other off-site highway works required. The developer will also be expected to fund the costs of processing and implementation of the proposed Traffic Regulation Order.

The vehicle swept path analysis that has been submitted demonstrates that the site can be accessed by a refuse freighter and pantechnicon type removals lorry, although I note that these do utilise the full width of Chestnut Street to carry out their manoeuvres. This section of Chestnut Street does attract on-street parking from commuters and also customers of the nearby Tudor Rose public house, which restricts the width of carriageway. It will also be necessary to consider the introduction of waiting restrictions in this vicinity to protect the movement of vehicles through this section. As before, the cost of funding this Traffic Regulation Order will fall upon the developer.

Although a footway exists along the entire northern side of Chestnut Street, the provision along the southern side from Key Street roundabout stops short of the proposed access. The drawings submitted do appear to indicate that this footway will link all the way into the development, but is beyond the red line boundary and does not indicate whether this is intended to represent an extension to the existing footway. For clarity, it would be appropriate to secure this off-site highway work through a planning obligation, so that it is provided as part of the Section 278 Agreement works.

To accord with the emerging Local Plan, this site is expected to contribute towards improvements of the Key Street/A249 junction. Based on the levy that has been applied to other developments that will send traffic through this junction, it would be appropriate to seek a financial contribution of £51,667. The Section 106 Agreement will therefore need to include for that provision.

Whilst the planning application has been made in Outline, with only access to be considered at this time, I do note that an indicative site layout has been submitted, and reference is made within the Transport Statement to the parking provision within the development. As these are considerations for any subsequent Reserved Matters application, should the Local Planning Authority grant approval to the current application, then those aspects of the proposals will be assessed at that time. Please note that the response being provided by Kent County Council Highways and Transportation now should not be taken as any acceptance of the details submitted beyond those of Access only. However, I would suggest that the parking category that this development will fall in should be Suburban Edge, rather than the Suburban category referred to in the Transport Statement. When assessing those details at the Reserved Matters stage, the development layout and details will be expected to be in accordance with the appropriate design guidance. It should be noted that the parking guidance, IGN3, does not count garages towards the parking provision, and independently accessible parking spaces are sought instead of tandem arrangements. This is likely to influence the final design of the development layout.

In conclusion, I can confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

- *Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.*
- *Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.*
- *Provision of measures to prevent the discharge of surface water onto the highway.*
- *Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.*
- *Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.*
- *Completion of the identified off-site highway works*
- *Undertaking to progress the Traffic Regulation Order for the speed limit extension*
- *Undertaking to progress the Traffic Regulation Order for waiting restrictions*
- *Contribution of £51,667.00 towards junction improvements'*

7.10 KCC Development Contributions Team requests the following contributions (based on 50 dwellings being approved and built under a reserved matters application):

- Primary Education (towards enhancement of Borden Primary School) - £166,200.00
- Secondary Education (towards Phase 3 of expansion of Westlands Secondary School - £117,990.00
- Community Learning (towards new equipment to support additional Adult Education in the new Sittingbourne Hub) - £3,021.35
- Youth Service (towards additional youth facilities and equipment in Sittingbourne) - £1,879.17
- Libraries (towards equipment and bookstock costs of new library in Sittingbourne Hub) - £11,350.00
- Social Care (towards fit out costs of Sittingbourne Care Hub) - £3,166.50
- The Contributions Team also request that one of the affordable homes on the site be suitable for wheelchair access; and that High Speed Fibre Optic Broadband connection be incorporated into any reserved matters proposal for the development.

7.11 The Greenspaces Manager requests a contribution of £43,050.00 (£861.00 per dwelling) towards the provision of off site play equipment at Grove Park. He also notes that, if the greenspace on site is to be maintained by SBC after completion, a ten year commuted sum will also be necessary. I will update Members at the meeting.

7.12 The NHS Swale Clinical Commissioning Group requests a financial contribution of £18,000.00 towards expanding existing facilities within the vicinity of the development, in the form of funding for services and staff.

7.13 The Environmental Protection Team Leader requires a contribution of £4,300.00 (£86.00 per dwelling for a refuse and a recycling bin).

7.14 No response has been received from the Housing Services Manager. I will update Members at the meeting, although I note that five dwellings or 10% of the total dwellings proposed are earmarked for affordable housing.

7.15 KCC Ecology raise no objection, subject to a landscaping condition included below.

7.16 KCC Flood and Water Management raise no objection, subject to conditions included below.

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Application papers and drawings relating to application 17/500727/OUT
- 8.02 Application papers and drawings relating to application SW/04/0095
- 8.03 Application papers and drawings relating to application SW/03/0224

9.0 APPRAISAL

9.01 The key issues to consider in this case are those of the principle of development; residential amenity; landscape and visual amenity; highway issues and infrastructure concerns; minerals issues; the use of agricultural land; and the density of development. I will deal with each of these matters in turn.

9.02 Principle of Development: A number of objectors have correctly noted that two previous planning applications have been refused on this site. Those refusals resulted from the fact that under both the 2002 and the 2008 Local Plans, this land was situated outside the built up area boundary and was not allocated for housing. However, under the auspices of the newly approved Bearing Fruit 2031: The Swale Borough Local 2017, the status of the land has changed, with the land being allocated for housing under Policy A21 of the Swale Borough Local Plan 2017. As such, with the status of the land changing, the principle of residential development on this land also changes, with such a principle now being acceptable and in accordance with Policy A21.

It should be noted that the site is allocated for a minimum of 30 dwellings; up to 50 are proposed in this application. However, the accompanying illustrative drawing would suggest up to 50 could be accommodated on this site, whilst still providing adequate public and private amenity space, parking and high levels of residential amenity. This matter will be further discussed later in this report.

9.03 Residential Amenity: In terms of residential amenity, I do agree with the concerns of residents in Cherryfields, which is located directly east of the northeast corner of the site. I have visited two of these residents and viewed the situation from their homes, and it is surprising to note how dramatically and rapidly the ground levels change between the existing rear gardens in Cherryfields and the eastern boundary of the proposal site, with a rapid rise in topography of between two and three metres. This would indeed result in issues of overlooking and possibly overshadowing to certain properties within Cherryfields.

The applicant has helpfully submitted indicative site layouts with the application, although access is the only issue to be decided under this outline application. A number of local residents correctly noted the possible issues which would result should this layout be confirmed. It must again be noted that layout is not an issue for decision in this application, but the applicant is advised to take note of Condition (5) below, recommending that when submitting a reserved matters application (should Members resolve to approve this outline application), the dwellings on the plots nearest to Cherryfields should be single storey, to minimise harm to the residents of Cherryfields.

I do am not of the opinion that the proposal would raise any other issues relating to an unacceptable erosion of residential amenity.

46

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

9.04 Highway Issues: A number of concerns have been raised with regard to highways issues and the impacts upon same from the development. I note the response received from KCC Highways and Transportation, which I included in full earlier in this report, for Members' information. That response suggests that the impact of the proposal upon highway amenity would be limited, and this would be negated further by the proposed changes to the Key Street Roundabout. I am happy to accept the expert opinion of KCC Highways and Transportation; much thought has obviously gone into their response, and the concerns raised have been carefully addressed by their findings.

9.05 Infrastructure Issues: A number of concerns have also been raised with regard to infrastructure issues, with particular reference to schools places, medical services, etc. Whilst I understand these concerns, I note the requests for contributions towards schools and facilities, libraries, NHS services, highways improvements, greenspaces, etc. so would argue that suitable financial recompense would be obtained via a s.106 to improve services in the area. As such, I consider that the impact of the development would be substantially negated by these improvements paid for by the developer, and as such, I deem this objection to have been answered. The amounts required are as follows:

- £51,667.00 towards junction improvements'
- Primary Education (towards enhancement of Borden Primary School) - £166,200.00
- Secondary Education (towards Phase 3 of expansion of Westlands Secondary School) - £117,990.00
- Community Learning (towards new equipment to support additional Adult Education in the new Sittingbourne Hub) - £3,021.35
- Youth Service (towards additional youth facilities and equipment in Sittingbourne) - £1,879.17
- Libraries (towards equipment and bookstock costs of new library in Sittingbourne Hub) - £11,350.00
- Social Care (towards fit out costs of Sittingbourne Care Hub) - £3,166.50
- £43,050.00 (£861.00 per dwelling) towards the provision of off site play equipment at Grove Park.
- £18,000.00 towards expanding existing NHS facilities within the vicinity of the development.
- £223.58 per dwelling, or £11,179.00 for 50 dwellings is required to mitigate potential impacts on the Swale Protection Area.
- A 5% administration and monitoring fee.

9.06 Minerals Issues: The site is identified for brick earth extraction prior to development in the Kent Minerals and Waste Local Plan (KMWLP) Adopted April 2017, and the KCC Minerals Extraction Team have registered a holding objection. The developer has

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

argued that the site should be exempt under Criterion 7 of Policy A21 of The Swale Borough Local Plan 2017, as follows:

'Policy DM 7 Safeguarding Mineral Resources states 'Planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding, where it is demonstrated that either 7. it constitutes development on a site allocated in the adopted development plan'.

Whilst we appreciate the Local Plan has not been adopted, it can be given significant weight as it is at an advanced stage. As the application site is included in the draft Local Plan in Policy A14- Sittingbourne 2. Manor Farm we believe the application can be permitted as it will adhere to #7 in Policy DM 7.

In addition to this, Bearing Fruits 2031: The Swale Borough Local Plan Proposed Main Modifications June 2016 proposed a number of amendments. In 6.5 Proposed housing allocations there is no reference of concern relating to safeguarding minerals which might be present on site, therefore requiring a Minerals Assessment.

This has been recognised on other proposed housing sites (but importantly not on Manor Farm) where Main Modifications have been included, Minerals Assessments on the followings proposed housing allocations have been proposed:

Larger Allocations

*Stones Farm, Sittingbourne
Land at the Western Link, Faversham
Preston Fields, Faversham
Iwade Expansion
Land north of High Street, Newington*

Smaller Allocations

*Ham Road, Faversham
West of Brogdale Road, Faversham*

Due to the forthcoming allocation of the site for housing and no representations or main modifications being proposed relating to a Minerals Assessment being required, we believe the site meets exemption #7 in Policy DM 7 and can therefore be supported.'

- 9.07 Policy A14 doesn't specifically highlight mineral safeguarding as an issue on this site as it does others, nevertheless the LP makes it clear (Section 4, paras 4.1.65 – 4.1.67) that where reserves are identified on site allocated for development we will ensure the developer works with the Minerals Planning Authority to ensure timely working of the site, provided that there is a suitable and viable outlet for the resource and without it creating an unreasonable impact on the viability and therefore affecting the development coming forward.

Regarding the developers' interpretation that they would be exempt because the site would be within an adopted development plan, the County Council as Mineral Planning Authority does not share this interpretation and considers that it is contrary to national planning guidance, the KMWLP and runs counter to the views of the Inspector who found the KMWLP sound in 2016.

The National Planning Policy Framework (NPPF) makes clear that the responsibility for facilitating the sustainable use of minerals applies to all planning authorities. The

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

NPPF is crystal clear that development needs to take account of minerals and not needlessly sterilise resources.

Specifically looking at this site – it is very small (50 dwellings) and therefore not likely to yield any amount of resource that would be practical or of economic value. Furthermore any extraction, given the small size, is likely to affect viability to such an extent as to render the whole scheme a non-starter. I would imagine that it why the LP Policy A14 doesn't explicitly specify a minerals assessment is needed. The developer has therefore been advised to have discussions with KCC without the need to do a minerals assessment.

The applicant's agent has heeded the above advice and discussed the matter at length with colleagues at KCC Minerals, who are in the process of preparing a response. I will update Members on this situation at the meeting.

- 9.08 Development on Agricultural Land: Policy DM 31 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 states that development on best and most versatile agricultural land (the land in question is Grade 1 Agricultural land) will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. An overriding need in this case is considered to be the housing need of this Borough. Policy DM 31 states that development on best and most versatile agricultural land will not be permitted unless the site is allocated by the local plan. In this case, the site is included as an allocation in the Local Plan. Paragraph 112 of the NPPF states that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. In this case I consider that the overriding argument in respect of the loss of best and most versatile agricultural land is that the need for housing outweighs the need for agricultural land and the fact that this site is included as an allocation site is of overriding significance.
- 9.09 Landscape Impact and Visual Amenity: The Swale Landscape Character and Biodiversity Appraisal 2011 indicates that the surrounding landscape is of moderate quality with moderate sensitivity to change. The application site is not within a designated landscape area and is not noted for its special quality or character. I therefore conclude that the development of this site for housing would cause no significant harm to the character or appearance of the countryside/landscape and that any harm can be adequately mitigated against through retention and reinforcement of vegetation along the boundaries of the site.
- 9.10 Density of Development: It will be noted that Policy A21 of the Swale Borough Local Plan 2017 states that the site is allocated for a minimum of 30 properties. The present outline application allows for up to 50, which would amount to a density of 24.8 dwellings per hectare. However, the indicative layout drawings do appear to show that the site can accommodate fifty dwellings whilst allowing for public and private amenity areas and parking, as previously noted above. Although it must be remembered that details of layout would be dealt with under a Reserved Matters application, should Members be inclined to support this Outline application, the indicative layout has shown that the site could comfortably accommodate up to fifty dwellings, and I consider that level to be acceptable in principle.

Policy A21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 states that one issue to be addressed on this allocated site would be 'The creation of a new attractive urban edge to Sittingbourne, with substantial landscaping to achieve the integration of development in a fashion that minimises its impact upon the separation

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

of Sittingbourne with Bobbing.’ Having carefully studied the illustrative site layout, I am of the opinion that sufficient space along the western and southern borders has been provided to ensure that this is the case.

- 9.11 I note the points raised by objectors, but I believe that the matters noted above address those points.
- 9.12 In terms of surface and foul drainage, I note the comments of relevant consultees (see paragraphs 7.07 and 7.16 above) and have included conditions to ensure that any issues raised are adequately addressed.
- 9.13 With regard to any implications for the Special Protection Area, a contribution of £11, 179.00 is sought in mitigation.

10.0 CONCLUSION

10.01 As such, and on balance, I therefore recommend that this outline application be approved, subject to the conditions below.

11.0 RECOMMENDATION – GRANT Subject to clarification in respect of open space management; the views of the housing Services Manager, the resolution of the brick earth issue; the signing of a suitably worded Section 106 Agreement; and the following conditions:

CONDITIONS

- (1) Details relating to the layout, scale and appearance of the proposed buildings, and the landscaping of the site, shall be submitted to and approved by the Local Planning Authority before any development is commenced.

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

- (2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

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

- (3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

- (4) Pursuant to Condition (1) above, the reserved matters application shall show no more than a total of 50 dwellings, and the dwellings shall be no more than 2.5 storeys in height

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

Reason: In order to comply with Policy A21 of The Swale Borough Local Plan 2017 and in the interests of safeguarding the local landscape.

- (5) Pursuant to Condition (1) above, the reserved matters application shall show only single storey dwellings in the north east corner of the site (marked on the illustrative site layout drawing no. DHA/11507/06 Rev A and the illustrative proposed storey heights plan no. DHA/11507/04 Rev A as plot numbers 35 - 39 inclusive), adjacent to the existing properties in Cherryfields

Reason: In view of the rise in the topography of the land, which would result in issues of overlooking and overshadowing to existing properties in Cherryfields, if those new properties were to be of more than one storey

- (6) The details submitted pursuant to condition (1) above shall provide full details of how the residential part of the development will meet the principles of 'Secure by Design'. The development shall be implemented in accordance with the approved details.

Reason: In the interests of public amenity and safety.

- (7) The details submitted pursuant to condition (1) above shall include cross-sectional drawings through the site, of the existing and proposed site levels. The development shall then be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development having regard to the nature of the site.

- (8) The landscaping details submitted pursuant to condition (1) shall include full details of both hard and soft landscape works including existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- (9) No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority:

- 1. A preliminary risk assessment which has identified:
 - a) All previous uses
 - b) Potential contaminants associated with those uses
 - c) A conceptual model of the site indicating sources, pathways and receptors
 - d) Potentially unacceptable risks arising from contamination at the site.

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

Reason: To prevent pollution of controlled waters and comply with the National Planning Policy Framework.

- (10) No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To prevent pollution of controlled waters and comply with the NPPF.

- (11) 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 the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To prevent pollution of controlled waters and comply with the NPPF

- (12) Prior to the commencement of the development hereby approved full details of the method of disposal of foul and surface waters as part of a detailed drainage strategy shall be submitted to and approved in writing by the local planning authority. This 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 100yr storm) can be accommodated and disposed of within the curtilage of the site. The risk of ground instability associated with discharge

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

of surface water into the underlying soils should be assessed and the infiltration rates confirmed with a suitable ground investigation.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- (13) No building hereby permitted shall be occupied until details of the implementation; maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- (14) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority (in consultation with the Environment Agency); this may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (15) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall 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 collected and disposed of via infiltration features located within the curtilage of the site.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions, and to protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (16) Development shall not begin until details are submitted to and approved in writing by Local Planning Authority (in consultation with the Environment Agency and the Lead Local Flood Authority) of measures within the drainage scheme that ensure silt and pollutants resulting from the site use can be adequately managed to ensure there is no resultant unacceptable risk to controlled waters as a result of infiltration of surface water from the development. The details shall only then be implemented in accordance with the approved details.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions, and to protect

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

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

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works.

Reason: In the interests of residential amenity, highway safety and amenity.

- (18) No development shall take place until:
- a) a site investigation has been carried out to determine the nature and extent of any reptile or bat population within or adjacent to the building in accordance with the advice of Natural England
 - b) a written report of the site investigation has been prepared by a competent person. The report shall include the investigation results and details of a scheme to ensure the long-term health and well being of any reptile or owl population within or adjacent to the building. The report shall be submitted to and approved by the Local Planning Authority in writing.
 - c) the development shall then be implemented in accordance with the approved scheme

Reason: In order to safeguard protected species that may be present within or adjacent to the building.

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

- (19) The details submitted in pursuance of condition (1) shall show adequate land reserved for parking in accordance with the Approved County Parking Standards and, upon approval of the details this area shall be provided, surfaced and drained before any building is occupied and shall be retained for the use of the occupiers of, and visitors to, the dwellings. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

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

- (20) None of the dwellings shall be occupied until space has been laid out within the site in accordance with details to be submitted and approved in writing by the Local Planning Authority for cycles to be securely stored and sheltered.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits and to ensure that such matters are dealt with before development commences.

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

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner and to ensure that such matters are dealt with before development commences.

- (22) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times :-
Monday to Friday 0900 - 1700 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (23) No demolition or construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times :-
Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 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.

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

- (24) Prior to the commencement of development a programme for the suppression of dust during the construction of the development shall have been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity and to ensure that such matters are dealt with before development commences.

- (25) Prior to the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows:
- (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
 - (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 - (1) highway drainage, including off-site works,
 - (2) junction visibility splays,
 - (3) street lighting, street nameplates and highway structures if any.

Reason: In the interests of highway safety.

- (26) Within 6 months of construction commencing a detailed landscaping plan and management plan must be submitted to the LPA for written approval. The submitted information must include the following:

- A landscape plan incorporating the ecological enhancement measures detailed within chapter 9 of the Ecology Assessment, Ethos Ecology (December 2016)
- Details of how the proposed planting will be established
- A five year rolling management plan for the site
- When habitat monitoring will be carried out
- When management plan reviews will be carried out

The measures shall be implemented in full accordance with the submitted information prior to the occupation of development.

Reason: In the interests of preserving biodiversity and visual amenity

Council's Approach to the Application

In accordance with paragraphs 186 and 187 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 proactive manner by:

Offering pre-application advice

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

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

INFORMATIVES:

- (1) It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>
The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such 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.
 - (2) A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW, (Tel: 0330 303 0119 or www.southernwater.co.uk).
 - (3) Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant.
 - (4) KCC wishes to make the applicant aware that Superfast Fibre Optic Broadband 'fibre to the premises' should be provided to each dwelling of adequate capacity (internal minimum speed of 100mb) for current and future use of the buildings.
 - (5) All nesting birds and their young are legally protected under the Wildlife and Countryside Act 1981 (as amended) and as such any vegetation must be removed outside the breeding bird season, and if this is not possible an ecologist must examine the site prior to works starting and if any nesting birds are recorded all works must cease within that area
- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

APPENDIX: HABITATS REGULATIONS ASSESSMENT**Context**

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.*

For proposals likely to have a significant effect on a European site, the Conservation of Habitats and Species Regulations (2010) requires the Council to make an appropriate assessment of the implications for the site. Para. 119 of the NPPF states that *"The presumption in favour of sustainable development ... does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."*

Given the scales of housing development proposed around the North Kent SPAs, the North Kent Environmental Planning Group (NKEPG) commissioned a number of reports to assess the current and future levels of recreational activity on the North Kent Marshes SPAs and Ramsar sites. NKEPG comprises Canterbury, Dartford, Gravesham, Medway and Swale local authorities, together with Natural England and other stakeholders. The following evidence has been compiled:

- Bird Disturbance Study, North Kent 2010/11 (Footprint Ecology).
- What do we know about the birds and habitats of the North Kent Marshes? (Natural England Commissioned Report 2011).
- North Kent Visitor Survey Results (Footprint Ecology 2011).
- Estuary Users Survey (Medway Swale Estuary Partnerships, 2011).
- North Kent Comparative Recreation Study (Footprint Ecology 2012).
- Recent Wetland Bird Surveys results produced by the British Trust for Ornithology.
- Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014).

In July 2012, an overarching report summarised the evidence to enable the findings to be used in the assessment of development. The report concluded (in summary):

- There have been marked declines in the numbers of birds using the three SPAs.
- Disturbance is a potential cause of the declines. The bird disturbance study provided evidence that the busiest locations support particularly low numbers of birds.
- Within the Medway, the areas that have seen the most marked declines are the area north of Gillingham, including the area around Riverside Country Park. This is one of the busiest areas

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

in terms of recreational pressure.

- Access levels are linked to local housing, with much of the access involving frequent use by local residents.
- Bird disturbance study - dog walking accounted for 55% of all major flight observations, with a further 15% attributed to walkers without dogs along the shore.
- All activities (i.e. the volume of people) are potentially likely to contribute to additional pressure on the SPA sites. Dog walking, and in particular dog walking with dogs off leads, is currently the main cause of disturbance.
- Development within 6km of the SPAs is particularly likely to lead to increase in recreational use.

Natural England's advice to the affected local authorities is that it is likely that a significant effect will occur on the SPAs/Ramsar sites from recreational pressure arising from new housing proposals in the North Kent coastal area.

The agreed response between Natural England and the local authorities is to put in place strategic mitigation to avoid this effect – a 'strategic solution.' This provides strategic mitigation for the effects of recreational disturbance arising from development pressure on international sites and will normally enable residential development to proceed on basis of mitigation provided avoiding a likely significant effect.

This strategic approach is set out in the Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). It will normally require the creation of on-site mitigation, such as the creation of open space suitable for dog walking and, secondly, via payment of a dwelling tariff for off-site impacts. The money collected from the tariff would be used by the North Kent Councils and its partners for mitigation projects such as wardening, education, diversionary projects and habitat creation. The policy context for such actions is provided by policies CP7 and DM28 of the Local Plan 2017.

Associated information

Natural England's email to SBC dated 6th April 2017 has also been considered; in particular that they have raised no objections subject to contributions towards strategic mitigation.

The Assessment of Land at Manor Farm, Sittingbourne

The application site is located approximately 2km to the southeast of The Swale SPA. Therefore, there is a medium possibility that future residents of the site will access footpaths and land within these European designated areas.

Measures are to be taken to reduce the impact on the SPA and these would be built into the development in respect of the provision of public open space.

This assessment has taken into account the availability of other public footpaths close to the site and to a lesser extent, the open space proposed within the site. Whilst these would no doubt supplement many day-to-day recreational activities, there would be some leakage to the SPA. However, the commitment of the applicant to contribute £223.58 per house to address SPA recreational disturbance towards through strategic mitigation in line with recommendations of the Thames Medway and Swale Estuaries SAMM as detailed above, will off-set some of the impacts. This mitigation will include strategies for the management of disturbance within public authorised parts of the SPA as well as to prevent public access to privately owned parts of the SPA.

Conclusions

Taking the above into account, the proposals would not give rise to significant effects on the SPA.

APPENDIX 1

Planning Committee Report – 17 August 2017

ITEM 2.4

At this stage it can therefore be concluded that the proposals can be screened out for purposes of Appropriate Assessment.

APPENDIX 2

Planning Committee

17 August 2017

The Major Projects Officer drew attention to the tabled update which had previously been emailed to Members.

The Chairman, also a Ward Member, raised concern about the dilapidated state of the site and the access from Union Street.

Councillor Bryan Mulhern moved a motion for a site meeting. This was seconded by Councillor Bobbin. On being put to the vote the motion was agreed.

Resolved: That application 17/501755/FULL be deferred to allow the Planning Working Group to meet on site.

2.4 REFERENCE NO - 17/500727/OUT		
APPLICATION PROPOSAL		
Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved) as amended by drawings received 31/05/2017.		
ADDRESS Manor Farm, Key Street, Sittingbourne, Kent, ME10 1YU		
WARD Borden and Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Balmoral Land (UK) Ltd AGENT

The Major Projects Officer drew attention to the tabled paper, which had previously been emailed to Members, and which included responses from the Environmental Protection Team Leader (EPTL), the Kent County Council (KCC) Public Rights of Way Officer (PROW), the KCC Principal Archaeological Officer, KCC Minerals Planning, and the Housing Services Manager and Highways England (HE). The paper also made reference to an additional highway condition, the adoption of the open spaces on the site by the Council, and two corrections to the submitted report.

The Major Projects Officer reported that the Council's Green Spaces Officer had requested a ten-year commuted sum of £37,292 developer contribution for maintenance of the greenspace on the site.

Parish Councillor Clive Simms, representing Borden Parish Council, spoke against the application.

Mrs Patricia Knott, an Objector, spoke against the application.

Mr David Williams, the Agent, spoke in support of the application.

The Chairman moved the officer recommendation to approve the application and this was seconded.

The Chairman asked Members if they had any questions.

In response to queries from Ward Members, the Major Projects Officer explained that the existing location of the footpath was a suggested route to show one way that the proposed 50 dwellings could be provided. The current layout plan was an

APPENDIX 2

Planning Committee

17 August 2017

illustration and Members should note the application was still at outline stage. At the reserved matters stage Members would be able to ensure the footpath was properly integrated into the estate. The Major Projects Officer explained that it was not practicable or appropriate to include full responses from all consultees within the Committee report, but he and the Case Officer had made an honest attempt to include the main points raised by HE. He stated that HE had no fundamental objections to the proposal but wanted to understand how the developer contribution of £51,000 would work with other developer contributions to fund improvement works at Key Street. He advised that he believed that officers could work together with HE to resolve these issues and ensure that the highway improvements were provided. With regard to air quality concerns, the Major Projects Officer explained that whilst close to the A249, the site was not within an Air Quality Management Area so no modelling of air quality had been carried out.

The Major Projects Officer referred to conditions (23) and (24) in the Committee report which related to restrictions on demolition and construction times at the site, and a programme of dust suppression and were requested by the EPTL. The vehicular access required the provision of a gap in the existing landscaping and would be set well away from the bend in the road.

In response to queries from Members, the Major Projects Officer advised that there was the option for the open space to be maintained by a management company, as an alternative to adoption by the Council. The affordable housing rate for Sittingbourne was 10% so the maximum of five units being provided was correct. The Major Projects Officer explained that the parking provided was on the indicative layout to demonstrate how 50 units could be provided on the site, but was not for approval under the current application.

Ward Members spoke against the application and raised comments which included: the Council's Local Plan recommended a minimum of 30 units and the developer was requesting up-to 50; an increase of 66%, does this mean the Local Plan was not worth the paper it was written on; this was not a suitable site; access onto Chestnut Street was completely inappropriate, it was often blocked on one side by parked vehicles which offered poor visibility so access onto it was not suitable; concern that the most pertinent points raised by HE were not included in the Committee report; how could the relevant mitigation measures be provided if the application was rushed through; it had not been proved that there would be no impact on air pollution; 50 units was far in excess of what was considered appropriate at the Public Examination of the Local Plan; was an isolated site; was a rural site so the affordable housing level should be 40%; concerns that if the footpath moved to the back of houses to the rear of Pine Lodge Care Centre, their security could be compromised and hoped that they would be consulted first; need to consider flood risks from the stream located under Key Street; and we have not received a response from KCC about brick earth and would be concerned about making a decision until this had been resolved.

Members raised points which included: The Council's Local Plan had approved a minimum of 30 units, for the developer to request 50 units was a serious issue and we should not allow; clear objections from HE; the developer should be made aware that the suggested arrangements for the PROWs were unacceptable and that we would require a high quality landscape scheme if approved; the developer

APPENDIX 2

Planning Committee

17 August 2017

should be asked to provide a study on air quality; the site was not in Sittingbourne so the affordable housing rate of 10% did not apply; the increase in vehicle movements if approved would have a considerable impact on air quality; and appropriate mitigation measures were required following the realignment of the footpaths.

The Major Projects Officer noted concerns that the number of units was increased to 50, however the density would be 25 units per hectare which was still low compared to other developments in Swale and offered good space for soft landscaping to mitigate landscape and residential amenity impacts. A condition could be imposed to ensure a buffer could be provided between the development and the gardens of existing dwellings.

The Development Manager suggested that as there were a number of items and information not provided, Members may want to defer the application. This was agreed by Members.

A Member requested that this information included comments raised by Members, in relation to the increase to 50 units.

Resolved: That application 17/500727/OUT be deferred to allow information on outstanding issues to be provided.

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

PLANNING COMMITTEE – 16 AUGUST 2018

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM 1 REFERENCE NO - 17/500727/OUT			
APPLICATION PROPOSAL			
Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved), as amended by drawings received 31/05/2017 and further amended by drawings received 9 November 2017			
ADDRESS Manor Farm Key Street Sittingbourne Kent ME10 1YU			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION			
Site is allocated for residential development in Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Policy A21) and the proposal is in accordance with national and local planning policy			
REASON FOR REFERRAL TO COMMITTEE			
Deferred following Planning Committee meeting of 17 th August 2017, as Members required clarification and further information in respect of brick earth extraction; holding objections from KCC Highways and Transportation and Highways England; the indicative layout; scale of development; and air quality. This report addresses each of these matters.			
WARD Borden And Grove Park	PARISH/TOWN Borden	COUNCIL	APPLICANT Balmoral Land (UK) Ltd AGENT
DECISION DUE DATE 13/06/17	PUBLICITY EXPIRY DATE 30/08/17	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
As noted on original report			

1.0 INTRODUCTION

- 1.01 Members will recall that this application was originally reported to the Planning Committee on 17th August 2017. After some discussion in which Members raised some concerns about the proposal, and requested further information, the item was deferred to allow Officers time to provide that information to a future meeting of the Committee. Please note that the original report is attached as Appendix 1. The minute of the meeting is attached as Appendix 2.
- 1.02 Members requested further information with regard to any requirement for the site to provide a source of brick-earth, as the site is identified for brick earth extraction prior to development in the Kent Minerals and Waste Local Plan (KMWLP) (adopted April 2017). These matters have now been resolved, as will be further explained below.

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

- 1.03 Members requested that Officers further examine and seek to address the holding objection received from Highways England, with regard to planned improvements regarding the Key Street roundabout, which is located close to this site. This matter has also been resolved.
- 1.04 Members were also concerned with regard to the indicative layout which accompanied the application, on two grounds. Firstly, a number of local objections had been received with regard to the proposal, which suggested that there may be some issues of overlooking to existing properties; and secondly, Members were concerned that, although a Local Plan allocated site (under Policy A21) for a minimum of thirty dwellings, the outline application is for up to fifty, and that there could consequently be adverse planning impacts.
- 1.05 Members also had concerns with regard to the air quality of the site and its vicinity (noting the proximity to the A249 and the A2), which will also be discussed later in this report.
- 2.0 THIS REPORT**
- 2.01 This update report addresses the above issues, and presents new information for Members to assess when deciding this application. The new report should be read in conjunction with the original report, attached as Appendix 1, which – among other things - describes the site, the proposed development, the policy context, and the consultation responses that had been received at the time of writing.
- 3.0 APPRAISAL**
- 3.01 I will address each of the Members' concerns noted above in turn in this section.
- 3.02 **Brickearth** – The site is identified for brick earth extraction prior to development in the Kent Minerals and Waste Local Plan (KMWLP) Adopted April 2017. Members noted that at the time of the Committee Meeting on 17th August, 2017, whilst the KCC Officer dealing with the brickearth issues on various sites in Swale had given the opinion that, as the brickearth deposits on this site were not abundant, he was of the opinion that an exception could be made for this site, and brickearth extraction from the site would not be necessary before development commenced. However, his Manager, the KCC Head of Planning was unavailable to authorise that decision at that time. Members determined that they wished to have confirmation from KCC's Head of Planning before further consideration of the proposal.
- 3.03 That authorisation was received on 18th September 2017, in the form of a letter from KCC's Head of Planning which noted '*I am satisfied that an exemption from the presumption to safeguard the mineral from sterilisation has been demonstrated, criterion 1 of Policy DM 7 (Safeguarding Mineral Resources) of the Kent Minerals and Waste Local Plan 2013-30 has been met and the proposed non-mineral development can proceed without needlessly sterilising any economically important mineral resources. I hope that clarifies Kent County Council's position on this application.*'.
- 3.04 **Holding Objection from Highways England** – The original holding objection from Highways England related to the need to bring forward an appropriate solution to increasing vehicle capacity at the Key Street A2/A249 junction. As Local Planning Authority, we had already collected S.106 obligation contributions from previous planning permissions towards an interim scheme for improvement to increase capacity. Further traffic modelling has had to take place to bring forward a revised scheme aimed at increasing capacity further to meet housing generated demand

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

arising from the Local Plan sites. A revised scheme has been agreed with KCC Highways and Transportation and with Highways England based on reconfiguration of the on-slip road to the A249 and the introduction of traffic light control and widening work of the off-slip approach to the roundabout and further minor widening and lane changes. The developers will be required to make a contribution of £111,744 towards the scheme and combined with existing and other contributions from other developments will see the interim scheme come forward. It should also be noted that the County Council in partnership with the Borough Council are also progressing a HIF (Housing Infrastructure Fund) bid scheme to support the costs of junction improvements to extend the life of the roundabout beyond the current Local Plan adopted time frame. If this bid is successful, noting the advanced stage we have reached in the bidding process, then the contributions gathered to date will contribute to the wider scheme improvements.

- 3.05 In an email dated the 1st June, with regard to the present application, Highways England confirmed that they raised no objection. In that email, the Officer notes that *'Highways England have now reached agreement with Kent County Council as the Local Highway Authority over proposals to provide an interim road improvement at the A249 / A2 Keycol Junction. The improvement is to be funded by strategic development that will have an impact on the volume of traffic using this junction. In this regard, Highways England are satisfied that the agreed improvement will cover the adverse impacts of this particular application and therefore subject to the council obtaining a suitable financial contribution from the applicant to be used towards those highway improvements Highways England is now content to lift its holding objection and offer no objection to the proposal. In this regard I attached our final substantive response on this application.'* (The letter refers to HE's formal response raising no objection).
- 3.06 Similarly, an email from KCC Highways and Transportation dated 6th June 2018 confirms that they have also removed their holding objection.
- 3.07 Indicative Layout - With regard to the indicative layout, I understand that the Agent has been in direct contact with the Objector who spoke at the Committee meeting on 17th August 2017, to ascertain the concerns of local residents. Having ascertained that those concerns related to issues of mutual overlooking, due to the elevated topography of the site, the Agent has submitted a new indicative layout plan (revision B, received 08/11/2017), which differs from that originally submitted as follows:
- The proposed play area has been moved to the northwest of the site, to create a 'buffer zone' between the existing and proposed housing and thus remove any possibility of mutual overlooking
 - The proposed properties on the north-eastern part of the boundary (namely Plots 35 to 39) have been changed from two storey houses to single storey bungalows, to ensure there are no issues of overlooking from these properties to those existing in Cherryfields. Members will recall that local residents had expressed concerns, as this part of the site is approximately two to three metres higher than the rear gardens in Cherryfields.
 - The indicative drawing also shows an increased buffer zone, with a typical width of 18 metres, between the proposed site and Chestnut Street and the Key Street roundabout. Further landscaping would also be provided at these points, to ensure that the buffer zone is not just empty ground, but marks a clear delineation between the existing and proposed developments.
- 3.08 I am therefore of the opinion that the most recent indicative layout plan has successfully addressed the understandable concerns of local residents, and now

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

represent a robust template for the established layout for the site, to be decided under a reserved matters application (for all matters other than access), should Members be minded to approve this Outline application.

- 3.09 Scale of Development – Members expressed concern over why an application for up to fifty houses had been submitted, when the allocation within the Local Plan 2017 (see Policy A21, which is set out in full at Paragraph 5.04 of the original report) suggested a minimum of thirty dwellings. That figure was an indication of what Officers considered to be a suitable minimum number of dwellings for the site based on their initial assessment of its constraints when the site was included as an allocation in the then emerging Local Plan. As the Applicant wished to increase the number to fifty, the onus was on the Applicant to prove that such a number was both practicable and acceptable on this site, and could be achieved without unacceptable planning impacts. This is why the Applicant submitted an indicative layout plan, in order to try and demonstrate that such a proposal was both practicable and acceptable, with no adverse effect on present neighbours or potential future occupiers of the proposed properties. On studying the latest version of this plan, officers are of the opinion that it has been proven that the number proposed is both practicable and acceptable, particularly when noting that the level of development would amount to 25 properties per hectare, which is somewhat lower than many modern housing developments, where a density level of 30 – 50 dwellings per hectare is quite usual. As such, officers remain of the opinion that the level of up to fifty dwellings proposed can be achieved and without significant erosion of existing amenity, nor would the development lead to any other unacceptable impacts.
- 3.10 Air Quality – Members expressed concern with regard to air quality on the site and the potential implications for residential amenity given its position close to both the Key Street Roundabout and the A2 and A249. When this was matter was initially discussed with the Environmental Protection Team Leader, it was agreed that, as neither the site itself or the adjacent parts of the A249 and A2 are designated as AQMAS, there would be no grounds for refusing the application on grounds relating to air quality.
- 3.11 Members will note that there are existing Air Quality Management Areas at Newington (approximately one mile west of the site); at St Paul's Street, Sittingbourne (also approximately one mile away, but to the north-east); and East Street Sittingbourne (approximately one mile and a quarter to the east).
- 3.12 The Council does not have data in respect of levels of air pollution at the site or in the vicinity of it. It was agreed that in the circumstances and mindful that air quality is not specified as an issue /matter to be addressed in the Local Plan 2017 policy relating to the site (Policy A21(2)), the Environmental Protection Team would not request the imposition of a planning condition / s106 clause relating to air quality at the site. The Environmental Protection Team Leader notes that:
- 'We do not have any current evidence of an exceedance of AQ guidelines here and hence are fairly relaxed from an AQ perspective, though the more development there is around here could change that opinion in time. We are planning to increase the level of AQ monitoring in and around this vicinity and nearby Wises Lane shortly in anticipation of future developments.'*
- 3.13 Borden Parish Council has recently submitted their own Air Quality Report, carried out for them by the University of Kent, which suggests that Air Quality levels are of concern.

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

However, it should be noted that that report refers to the site under consideration to the east of the site, referred to locally as the 'Wises Lane' application (17/505711/HYBRID). As such, although a very small part of that application site is situated adjacent to the Manor Farm site, the report does not directly refer to the Manor Farm site. However, for the sake of regularity, the report has been evaluated by the Environmental Protection Team Leader, who has commented as follows:

'There is little SBC air quality monitoring information available in the vicinity of the proposed development. It has been explained previously that it is impossible to provide this type of information for everywhere in the borough, because other areas have been prioritised as being likely to be producing excessive air pollution levels – principally on, or near to the A2.

This report comments on air quality monitoring carried out close to the localities commented on by the consultants who had previously submitted an air quality modelling report on behalf of the developer, though I have not seen this report. (NB. This refers to the Wises Lane report).

Three pollutants have been measured:

Particulates, PM_{2.5} and PM₁₀, and Nitrogen Dioxide, NO₂

The monitoring was carried out between the following periods:

*24th February – 11th March 2018 for PM_{2.5} and PM₁₀ and
21st February – 25th April 2018 for NO₂*

Particulate monitoring was carried out using an automatic monitor and NO₂ by 10 diffusion tubes sited in similar locations to that of the consultant.

The report basically states that the developer's air quality assessment understates the pollution levels in this locality and that their report demonstrates that WHO levels are being exceeded for PM_{2.5} and PM₁₀ particulates, though not for NO₂.

I would comment on this report as follows:

- It is well intentioned and detailed and I am not in a position to criticise the method and monitoring used, but it cannot be compared with LAQM methodologies because the short time periods are not representative of the established method of measuring air pollution levels and do not take into account seasonal variations – at least 12 months monitoring should take place. These periods are much too short to make definitive conclusions about AQ levels at this locality.*
- It uses an instrument that I assume is not MCERTS approved for monitoring particulates and thus the results cannot be compared with the approved analysers, which are.*
- It concludes that World Health Organisation (WHO) PM_{2.5} and PM₁₀ guideline levels are being exceeded. WHO levels are lower than EU limits, but the Local Authority Air Quality Management (LAQM) system is the only recognised system in the UK and this is linked to EU limits. The report itself states that these levels do not exceed EU limits; it is only against these limits that conclusions can currently be made.*
- The NO₂ diffusion tubes exposure times are far too short to be accurate – at least 12 months monitoring would be required. They are also not exactly the same as those used by SBC and other Kent Authorities. They are prepared by another laboratory and*

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

have a different bias correction value – not critical, but again they cannot be compared with SBC data.

*Also, this report is listed as a 'draft report' Is there a final version?
SBC are setting up new diffusion tube sites close to this site and will be able to report the levels found in the future, once a representative time period has elapsed.*

RECOMMENDATIONS:

I do not dispute the work that has gone into writing this report, or the measurements and conclusions that have resulted from it, but as I have explained above, these results cannot be compared with the developers AQ assessment which I assume is based on the DEFRA/LAQM system, which is the system set up in the UK.

Also, crucially, comparisons are being made with a different set of guideline values. Therefore I have to reject this report and its conclusions.'

3.14 As such, although Borden Parish Council's report actually refers to an adjacent, much larger site, the Environmental Protection Team Leader has fully assessed the report submitted and has highlighted a number shortcomings and anomalies in the report, casting some doubt over its findings. In these circumstances, I am satisfied that there will likely be no significant adverse impact on air quality arising from the development and that the development would not result in any exceedances on the Air Quality Objectives in any of the AQMAs within the Borough.

3.15 Ecology - With regard to any implications for the Special Protection Area, Members will note that a Habitat Regulations Assessment was carried out when the initial report was brought before this Committee on 17th August 2017, which is attached as part of Appendix 1 to this report.

3.16 The Conservation of Habitats and Species Regulations 2017 - The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

Residential development within 6km of any access point to the SPA has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£301 per dwelling on developments of 10 or more units, as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.

However, 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

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

therefore cannot be screened out of the need to provide an Appropriate Assessment (AA) solely on the basis of the agreed mitigation measures (SAMMS), and needs to progress to consideration under an AA.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the scale of development (50 houses on an allocated site at the edge of town), with access to other recreation areas) and the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff will ensure that these impacts will not be significant or long-term. I therefore consider that, 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/>)

3.17 Developer Contributions – As a reminder to Members, the Developer Contributions requested are as follows:

- **£111,744.00** towards junction improvements to the Key Street junction
- Primary Education (towards enhancement of Borden Primary School) - **£166,200.00**
- Secondary Education (towards Phase 3 of expansion of Westlands Secondary School) - **£117,990.00**
- Community Learning (towards new equipment to support additional Adult Education in the new Sittingbourne Hub) - **£3,021.35**
- Youth Service (towards additional youth facilities and equipment in Sittingbourne) - **£1,879.17**
- Libraries (towards equipment and bookstock costs of new library in Sittingbourne Hub) - **£11,350.00**
- Social Care (towards fit out costs of Sittingbourne Care Hub) - **£3,166.50**
- **£43,050.00** (£861.00 per dwelling) towards the provision of off site play equipment at Grove Park.
- **£18,000.00** towards expanding existing NHS facilities within the vicinity of the development.
- £301.14 per dwelling, or **£15,057** for 50 dwellings is required to mitigate potential impacts on the Swale Protection Area.
- **£13,200.00** towards the resurfacing and improvement of public footpath KR117.

SUB TOTAL: £504,658.02

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

- An administration fee amounting to 5% (or £25,232.90) of the total value of the above amounts will also be payable.

TOTAL: £529,890.92

4.0 CONCLUSION

4.01 Having carefully looked at the matters raised by Members at the meeting of this Committee on 17th August 2017, Officers believe that these issues have now been resolved, and again recommend that the proposal be delegated to officers to approve, subject to the signing of a suitably worded S106 agreement, and the conditions noted below.

5.0 RECOMMENDATION – GRANT Subject to the signing of a suitably-worded Section 106 agreement and the following conditions:

CONDITIONS

(1) Details relating to the layout, scale and appearance of the proposed buildings, and the landscaping of the site, shall be submitted to and approved by the Local Planning Authority before any development is commenced.

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

(2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

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

(3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

(4) Pursuant to Condition (1) above, the reserved matters application shall show no more than a total of 50 dwellings, and the dwellings shall be no more than 2.5 storeys in height

Reason: In order to comply with Policy A21 of The Swale Borough Local Plan 2017 and in the interests of safeguarding the local landscape.

(5) Pursuant to Condition (1) above, the reserved matters application shall show only single storey dwellings in the north east corner of the site (marked on the illustrative site layout drawing no. DHA/11507/06 Rev B and the illustrative proposed storey heights plan no. DHA/11507/04 Rev B as plot numbers 35 - 39 inclusive), adjacent to the existing properties in Cherryfields

Reason: In view of the rise in the topography of the land, which would result in issues of overlooking and overshadowing to existing properties in Cherryfields, if those new properties were to be of more than one storey

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

- (6) The details submitted pursuant to condition (1) above shall provide full details of how the residential part of the development will meet the principles of 'Secure by Design'. The development shall be implemented in accordance with the approved details.

Reason: In the interests of public amenity and safety.

- (7) The details submitted pursuant to condition (1) above shall include cross-sectional drawings through the site, of the existing and proposed site levels. The development shall then be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development having regard to the nature of the site.

- (8) The landscaping details submitted pursuant to condition (1) shall include full details of both hard and soft landscape works including existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- (9) No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority:

1. A preliminary risk assessment which has identified:
 - a) All previous uses
 - b) Potential contaminants associated with those uses
 - c) A conceptual model of the site indicating sources, pathways and receptors
 - d) Potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

Reason: To prevent pollution of controlled waters and comply with the National Planning Policy Framework.

- (10) No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To prevent pollution of controlled waters and comply with the NPPF.

- (11) 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 the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To prevent pollution of controlled waters and comply with the NPPF

- (12) Prior to the commencement of the development hereby approved full details of the method of disposal of foul and surface waters as part of a detailed drainage strategy shall be submitted to and approved in writing by the local planning authority. This 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 100yr storm) can be accommodated and disposed of within the curtilage of the site. The risk of ground instability associated with discharge of surface water into the underlying soils should be assessed and the infiltration rates confirmed with a suitable ground investigation.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- (13) No building hereby permitted shall be occupied until details of the implementation; maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

i) a timetable for its implementation, and

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- (14) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority (in consultation with the Environment Agency); this may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (15) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall 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 collected and disposed of via infiltration features located within the curtilage of the site.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions, and to protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (16) Development shall not begin until details are submitted to and approved in writing by Local Planning Authority (in consultation with the Environment Agency and the Lead Local Flood Authority) of measures within the drainage scheme that ensure silt and pollutants resulting from the site use can be adequately managed to ensure there is no resultant unacceptable risk to controlled waters as a result of infiltration of surface water from the development. The details shall only then be implemented in accordance with the approved details.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions, and to protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

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

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works.

Reason: In the interests of residential amenity, highway safety and amenity.

- (18) No development shall take place until:
- a) a site investigation has been carried out to determine the nature and extent of any reptile or bat population within or adjacent to the building in accordance with the advice of Natural England
 - b) a written report of the site investigation has been prepared by a competent person. The report shall include the investigation results and details of a scheme to ensure the long-term health and well being of any reptile or owl population within or adjacent to the building. The report shall be submitted to and approved by the Local Planning Authority in writing.
 - c) the development shall then be implemented in accordance with the approved scheme

Reason: In order to safeguard protected species that may be present within or adjacent to the building.

- (19) The details submitted in pursuance of condition (1) shall show adequate land reserved for parking in accordance with the Approved County Parking Standards and, upon approval of the details this area shall be provided, surfaced and drained before any building is occupied and shall be retained for the use of the occupiers of, and visitors to, the dwellings. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

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

- (20) None of the dwellings shall be occupied until space has been laid out within the site in accordance with details to be submitted and approved in writing by the Local Planning Authority for cycles to be securely stored and sheltered.

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits and to ensure that such matters are dealt with before development commences.

- (21) The construction of the development hereby approved shall not commence before the completion of the vehicular access leading from Chestnut Street as shown on drawing reference DHA_11506-T-02. Thereafter, this access shall be maintained as such in perpetuity.

Reason: In the interest of highway safety and amenity

- (22) No development shall commence until the developer has submitted drawings showing the relocation of Public Right of Way ZR117 away from the proposed estate road, avoiding steep gradients and steps. No development shall take place until such suitable drawings shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in complete accordance with these approved drawings and fully implemented before the first occupation of any of the properties hereby permitted.

Reason: In the interests of protecting the amenity value of the existing Public Rights of Way.

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

- (1) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority before any reserved matters application has been submitted; and
- (2) following on from the evaluation, 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.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in-situ or by record.

- (24) No development shall commence until the developer has developed a scheme detailing and where possible quantifying what measures or offsetting schemes are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The most recent DEFRA Emissions Factor Toolkit should be utilised and the latest DEFRA IGCB Air Quality Damage Costs for pollutants considered, to calculate the resultant damage cost. The report should be submitted to and approved by the Local Planning Authority, prior to development, and any mitigation sums should be included within a suitably worded s106 agreement.

Reason: In the interests of air quality management.

- (25) The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner and to ensure that such matters are dealt with before development commences.

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

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

Reason: In the interests of residential amenity.

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

Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 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.

- (28) Prior to the commencement of development a programme for the suppression of dust during the construction of the development shall have been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity and to ensure that such matters are dealt with before development commences.

- (29) Prior to the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows:

- (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
- (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:

- (1) highway drainage, including off-site works,
- (2) junction visibility splays,
- (3) street lighting, street nameplates and highway structures if any.

Reason: In the interests of highway safety.

- (30) Within 6 months of construction commencing a detailed landscaping plan and management plan must be submitted to the Local Planning Authority for written approval. The submitted information must include the following:

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

- A landscape plan incorporating the ecological enhancement measures detailed within chapter 9 of the Ecology Assessment, Ethos Ecology (December 2016)
- Details of how the proposed planting will be established
- A five year rolling management plan for the site
- When habitat monitoring will be carried out
- When management plan reviews will be carried out

The measures shall be implemented in full accordance with the submitted information prior to the occupation of development.

Reason: In the interests of preserving biodiversity and visual amenity

Council's Approach to the Application

In accordance with paragraphs 186 and 187 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 proactive manner by:

Offering pre-application advice

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

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

INFORMATIVES:

- (1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such 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.
- (2) A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW, (Tel: 0330 303 0119 or www.southernwater.co.uk).
- (3) Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of

APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1

mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant.

- (4) KCC wishes to make the applicant aware that Superfast Fibre Optic Broadband 'fibre to the premises' should be provided to each dwelling of adequate capacity (internal minimum speed of 100mb) for current and future use of the buildings.
 - (5) All nesting birds and their young are legally protected under the Wildlife and Countryside Act 1981 (as amended) and as such any vegetation must be removed outside the breeding bird season, and if this is not possible an ecologist must examine the site prior to works starting and if any nesting birds are recorded all works must cease within that area
- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.


APPENDIX 3

Planning Committee Report – 16 August 2018

DEF ITEM 1



17/500727/OUT - Manor Farm, Key Street, Sittingbourne
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APPENDIX 4

PLANNING COMMITTEE

MINUTES of the Meeting held in the Council Chamber - Swale House, East Street, Sittingbourne, Kent ME10 3HT on Thursday, 16 August 2018 from 7.00pm - 9.25 pm.

PRESENT: Councillors Mike Baldock, Cameron Beart, Bobbin, Richard Darby, Mike Dendor, James Hall, Nicholas Hampshire, Mike Henderson, James Hunt, Ken Ingleton, Peter Marchington, Bryan Mulhern (Chairman) and Prescott.

OFFICERS PRESENT: Matt Bembridge, Colin Finch, Andrew Jeffers, Ross McCardle, Jo Millard, Cheryl Parks, Graham Thomas and Jim Wilson and Steve Wilcock.

ALSO IN ATTENDANCE: Councillors Roger Clark and Duncan Dewar-Whalley.

APOLOGIES: Councillors Andy Booth and Nigel Kay.

179 FIRE EVACUATION PROCEDURE

The Chairman ensured that those present at the meeting were aware of the emergency evacuation procedure.

180 MINUTES

The Minutes of the Meeting held on 19 July 2018 (Minute Nos. 67 - 72) were taken as read, approved and signed by the Chairman as a correct record.

181 DECLARATIONS OF INTEREST

During the discussion on the deferred item 17/500727/OUT, Councillor Baldock declared a non-pecuniary interest as he sat on Borden Parish Council but had taken no part in the discussion at their Parish Council meeting.

182 DEFERRED ITEM

Reports shown in previous Minutes as being deferred from that Meeting.

DEF ITEM 1 REFERENCE NO - 17/500727/OUT			
APPLICATION PROPOSAL			
Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved), as amended by drawings received 31/05/2017 and further amended by drawings received 9 November 2017			
ADDRESS Manor Farm Key Street Sittingbourne Kent ME10 1YU			
WARD Borden And Grove Park	PARISH/TOWN Borden	COUNCIL	APPLICANT Balmoral Land (UK) Ltd AGENT

The Major Projects Officer drew attention to the tabled update.

The Chairman moved the officer recommendation to delegate approval of the application to officers and this was seconded.

Parish Councillor Clive Simms, representing Borden Parish Council, spoke against the application.

The Environmental Protection Team Leader advised that air quality levels in Swale were measured against Government standards in locations where traffic flows were highest, and Swale already monitored air quality more than any other authority in Kent. He added that extra monitoring was taking place in and around the proposed site, but at least 12 months monitoring data would be needed before knowing what the levels were in this vicinity. The Environmental Protection Team Leader drew attention that that the equipment used by Borden Parish Council in their air quality measuring was not certified and that the monitoring periods used were too short to be accurate and comparable with that carried out by the Council.

A Member congratulated Borden Parish Council for the work carried out on air quality monitoring and said that it was premature to make a decision on the application until the air quality data for the area of the proposed site was collected.

In the debate that followed Members raised the following points:

- Concern about vehicles parking along Chestnut Street, Borden affecting the sight lines to the entrance of the proposed development;
- would the improvements to Key Street roundabout alter the layout and traffic flows?;
- the full Air Quality report submitted by Borden Parish Council should have been considered;
- the plans did not reflect the route of the footpath;
- the Ecological survey was inadequate as there was a large badger sett and a colony of doormice on land in the vicinity of the application site;
- an Archaeological survey was required
- the site did not integrate in the urban area and the levels of affordable housing proposed should be increased to 30%, as it was for rural housing development;
- proper screening of the site by mature trees should be provided;
- suggested Section 106 payments for roadworks were sought in advance of the commencement of the development; and
- concern about a possible appeal against the non-determination of the application and a possible costs application alongside the appeal.

The Principal Transport and Development Planner (Kent County Council – Highways and Transportation), advised that the proportion of the contribution sought from the development was more than had been sought from developments already granted and would be combined with the money from the Housing Infrastructure Fund bid. The funding would allow for an interim mitigation scheme to be delivered which included the installation of traffic lights on the A249 off-slip. He added that when considering the contribution offered and traffic flows through

APPENDIX 4

Planning Committee

16 August 2018

the improved junction, the number of predicted vehicle movements from the site was de minimis.

The Major Projects Officer explained that condition (22) in the report required drawings to show the relocation of Public Right of Way ZR117. He referred to the KCC Ecological report which raised no objection and reminded Members that other legislation protected wildlife such as badgers and dormice, which were a protected species, if necessary. The Major Projects Officer stated that the site was detailed in the Local Plan as an extension to Sittingbourne and 10% affordable housing was therefore appropriate. He explained that the application would be difficult to defend at an appeal as all the expert consultees had no objections to the proposal.

Councillor Nicholas Hampshire moved a motion to defer the application for 12 months to allow for the air quality data currently being collected, to be considered and this was seconded by Councillor Mike Baldock. On being put to the vote, the motion was agreed.

Resolved: That application 17/500727/OUT be deferred for 12 months to allow the air quality monitoring in the area to be carried out and the data considered.

183 SCHEDULE OF DECISIONS

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 17/500807/FULL			
APPLICATION PROPOSAL			
Change of use of land for the keeping of private horses. Erection of stables and cess pool with associated landscaping and parking			
ADDRESS Land Adjacent To M2 Yaughar Lane Hartlip Kent ME9 7XE			
WARD Hartlip, Newington And Upchurch	PARISH/TOWN Hartlip	COUNCIL	APPLICANT Mr Simon Coaten AGENT

The Senior Planner advised that Hartlip Parish Council were unable to send a speaker but maintained their objection to the scheme. He added that the stables were 15m **east** and the manure stable **east**, not north as stated in the report at 2.02 on page 45 of the Agenda.

The Senior Planner drew Members’ attention that the new brick walls and gates that had recently been erected at the site were not part of this application, were unacceptable and negotiations for their removal were on-going.

The Chairman moved the officer recommendation to approve the application and this was seconded.

A Member requested that the planning history stated on reports be in date order, most recent first. In response to a question from a Member on the use of the car

APPENDIX 5



Air Quality Evidence Review

Manor Farm, Sittingbourne, Kent

December 2018

www.phlorum.com

APPENDIX 5

Air Quality Evidence Review

Manor Farm, Sittingbourne, Kent

December 2018

Document Control:

Project no.	Project
8367A	Manor Farm Application, Sittingbourne, Kent: Air Quality Evidence Review

Client	
Swale Borough Council	Swale House, East Street, Sittingbourne, Kent ME10 3HT

Report No.	Version	Date of issue	Prepared by	Checked
8367 AQAreview_draftv1	Draft	31/10/2018	N Jenkins	P Nolan
8367 AQAreview_final	Final	17/12/2018	-	N Jenkins

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Phlorum Limited

APPENDIX 5

Contents

1.	Introduction.....	4
2.	Review methodology	5
3.	Local Air Quality	6
4.	Review of Wises Lane Air Quality Assessment	8
5.	Review of BPC comments.....	11
6.	Manor Farm Air Quality comments review.	14
7.	Review summary and recommendations	16

APPENDIX 5

1. Introduction

- 1.1 Phlorum Ltd has been commissioned by Swale Borough Council (SBC) to undertake an evidence review of an air quality assessment which forms part of an Environmental Statement (ES) for a Planning Application (reference 17/500727/OUT) at Manor Farm, Sittingbourne, Kent.
- 1.2 An outline planning application for up to 50 dwellings was submitted to SBC for a proposed site at Manor Farm, situated on the western edge of Sittingbourne, almost adjacent to the main A2 London-Dover road (running east-west); the A249, running north-south between Sheerness and Maidstone; and the Key Street roundabout, which forms the junction linking the two.
- 1.3 No air quality report was submitted with this application, as the site has not been previously identified as having air quality issues and is an allocated site for housing within the Local Plan (*"Bearing Fruits 2031: The Swale Borough Local Plan 2017"*). However, an air quality report was submitted with a hybrid application for up to 595 houses at a site much larger than the site in question that has an adjoining boundary with the south eastern boundary of the Manor Farm site (Wises Lane; 17/505711/HYBRID).
- 1.4 Borden Parish Council has commissioned its own critique of this report, which concludes that there are air quality exceedances within the area. That critique has been strongly rebuffed by the Council's Environmental Protection Team Leader, for a number of reasons.
- 1.5 The commission therefore requires the production of a report reviewing and analysing all of the air quality issues raised from provided information (i.e. the air quality assessment report accompanying the neighbouring application; the report commissioned by Borden Parish Council; and the responses of SBC's Environmental Protection Team Leader) to ascertain whether or not there would be sufficient reason for the present outline planning application to be refused on air quality grounds.

APPENDIX 5

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APPENDIX 5

2. Review methodology

Methodology

- 2.1 The review of the evidence will be undertaken by providing an analysis of the following elements:
 - ☛ current air quality in the vicinity of the proposed development;
 - ☛ a review of the adjacent Wises Lane development air quality assessment and results;
 - ☛ a review of Borden Parish Councils comments regarding the Wises Lane development air quality assessment; and
- 2.2 A short review of the likely impacts on air quality from the proposed Manor Farm application (ref 17/500727/OUT | Outline application for residential development for up to 50 dwellings with access off Chestnut Street) will also be undertaken, this will include:
 - ☛ a review of the comments from the Council's Environmental Protection Team Leader concerning the development's potential impact on air quality.
- 2.3 A summary of the review results will be provided outlining recommendations

APPENDIX 5

3. Local Air Quality

Background Air Quality

- 3.1 The current air quality concentrations in the vicinity of the proposed Manor Road development are presented in Table 3.1 below.
- 3.2 Defra provides estimated background concentrations of the UK Air Quality Standard (AQS) pollutants at the UK Air Information Resource (UK-AIR) website¹. These estimates are produced using detailed modelling tools and are presented as concentrations at central 1km² National Grid square locations across the UK. These were updated in November 2017 and are based on monitoring data from 2015.
- 3.3 The predicted background pollution concentrations for the main AQS pollutants of concern; nitrogen dioxide (NO₂) and particulates (PM₁₀) for 2016 to 2018 are presented in Table 3.1. These data were taken from the central grid square location closest to the proposed site.

Table 3.1: Background concentrations of pollutants at the proposed development site from the UK-AIR (OS ref 588500, 164500)

Pollutant	Predicted Background Concentration (µg.m ⁻³)			Averaging Period	Air Quality Standard Concentration (µg.m ⁻³)
	2016	2017	2018		
NO ₂	16.4	15.9	15.3	Annual mean	40
PM ₁₀	17.2	17.0	16.9	(Gravimetric) Annual mean	40

- 3.4 Background concentrations at the proposed site are well below the AQS's for both NO₂ and PM₁₀.

¹ Defra: UK-AIR. www.uk-air.defra.gov.uk (accessed 29/10/2018).

APPENDIX 5

Local Air Quality Management

- 3.5 Local Authorities are required to assess and manage local air quality under the Local Air Quality Management (LAQM) regime. Obligations under the Environment Act 1995 require local authorities to declare an Air Quality Management Area (AQMA) at sensitive receptor locations where an air quality objective concentration has been predicted to be exceeded.
- 3.6 SBC has 5 locations which exceeded the annual air quality standard (AQS) for nitrogen dioxide (NO₂) and subsequently declared 5 AQMAs within the Borough.
- 3.7 The AQMAs are listed below:
- ☛ AQMA 1: Newington, (A2 /High St) declared 2009;
 - ☛ AQMA 2: Ospringe Street, Faversham (A2/Ospringe) declared in June 2011 and revised (as AQMA 6) to the Mount in May 2016;
 - ☛ AQMA 3: East Street, Sittingbourne (A2/Canterbury Road) declared January 2013;
 - ☛ AQMA 4: St Pauls Street, Milton, Sittingbourne (B2006) declared January 2013; and
 - ☛ AQMA 5: Teynham (A2/London Rd) declared December 2015.
- 3.8 Monitoring at Key Street has been undertaken using NO₂ diffusion tubes at site number SW62 – Key Street (OS ref. 588178, 164235). This site is a kerb-side monitoring site adjacent to the A2 and is not at a location of exposure i.e. a residential property.
- 3.9 Measurements from 2011 – 2016 have shown a steady decline in NO₂ at kerb-side annual average concentrations (from 46.5 to 30.6 µg/m³). This is below the NO₂ AQS.
- 3.10 Key Street (A2) is not an AQMA and air quality is currently below the AQS for NO₂.
- 3.11 There is no PM₁₀ monitoring in the vicinity of the site.

Summary

- 3.12 The air quality in the vicinity of the proposed development are further back from the A2 and is likely to be closer to background concentrations which are well below the AQS's.

APPENDIX 5

4. Review of Wises Lane Air Quality Assessment

Wises Lane Development

- 4.1 An air quality assessment (AQA) was undertaken as part of the ES for the Wises Lane (Quinn Estates Ltd - Land at Southwest Sittingbourne, Kent) planning application.
- 4.2 The AQA was undertaken by Entran Limited, 7 Greenway Farm, Bath Road, Wick, Bristol BS30 5RL in September 2017.
- 4.3 The assessment was undertaken to assess the air quality impacts from:
“ the Proposed Development which covers an area of approximately 47.47 hectares (ha) and is for a mixed-use sustainable urban extension comprising of the following: up to 675 dwellings, a 2 form entry Primary School, , local convenience retail, medical, social, recreational, sporting and community facilities with all associated infrastructure.
- 4.4 The development site is directly to the east of the Manor Farm proposed development.

Air Quality Assessment

- 4.5 The AQA followed standard practice and guidance required in EIAs for air quality.
- 4.6 The AQA set-out clear methodology and references local air quality policy guidance for assessing air quality impacts and emissions calculation (i.e. Kent and Medway Air Quality Planning Guidance).
- 4.7 Construction phase assessments followed UK guidance provided by the Institute of Air Quality Management (IAQM). The development impact assessment also followed and referenced guidance provided by the IAQM & Environmental Protection UK (EPUK).
- 4.8 The Operational phase assessment took into account the relevant AQS pollutants (NO₂, PM₁₀ & PM_{2.5}) and any potential impacts on the closest relevant AQMAs in East Street and St Pauls.

APPENDIX 5

- 4.9 The AQA used the most relevant inputs for modelling including: meteorological data, most relevant sensitive receptor locations, NO_x to NO₂ conversions, sourced traffic data verified by transport consultants and DfT, verification followed official LAQM guidance, sourced local background data, most up-to date Defra emission factors, damage cost calculator values and methodology.
- 4.10 The AQA referenced the most relevant policies and regulations with regard to air quality and planning. With regard to current air quality the AQA referenced the Swale air quality monitoring data and relevant Defra background concentrations.
- 4.11 The AQA assessed the construction impacts appropriately referencing IAQM guidance and identifying the risks.
- 4.12 The AQA assessed the operational impacts using the Kent and Medway guidance “Impact Significance” descriptors, as opposed to IAQM guidance descriptors. The results showed impacts from the operational phase appear to be positive i.e. beneficial to air quality.
- 4.13 The AQA did not assess new receptors being introduced into the development, although as these locations are further from other road sources such as the A2 or A249, these receptors are likely to have significantly lower concentrations.
- 4.14 The Emissions Mitigation Assessment stated:
- 8.123 Based on the traffic data provided by the transport consultants the number of annual trips generated by the operational development would be 1259615 per annum.*
- 4.15 This annual trip figure is equivalent to 3,451 annual average daily traffic (AADT), this figure should be stated in the damage cost calculation. The emissions calculation appears to be robust, assuming the correct traffic (AADT) figures were used.
- 4.16 Cumulative effects were considered in the AQA, this assessed the combined effect of other local committed developments, these were detailed in Chapter 3.
- 4.17 Mitigation and residual effects were assessed and recommended standard IAQM guidance measures that are to be followed within a Dust Management Plan (DMP) which will be incorporated within the Construction Environmental Management Plan (CEMP).
- 4.18 An additional Air Quality Assessment Summary statement outline (dated 2nd October 2018)² confirmed the impacts from the development were insignificant citing the infrastructure improvements (i.e. link-road), electric vehicle charge points, low NO_x boilers plus additional measures such as travel plans and additional “green infrastructure”. As part of the May 2018 ES Addendum, a damage cost was re-calculated to equate to £481,639.

² Ref: 17_505711_HYBRID-Air_Quality_Assessment_Summary-4413867.pdf

APPENDIX 5**Summary**

- 4.19 The AQA methodology and approach is robust for this type of development. The AQA uses the most relevant and up-to-date guidance and assessment tools required for a detailed modelling assessment and emissions mitigation calculation.
- 4.20 The construction phase assessment detailed and assessed the risks and recommended appropriate mitigation measures following UK best practice guidance.
- 4.21 The operational phase assessment was undertaken using a recognised detailed air quality model (ADMS) and followed appropriate methodologies following the LAQM Technical Guidance (LAQM.TG(16)). The modelled results were verified and outputs were compared to the Kent and Medway impact significance criteria.

APPENDIX 5

5. Review of BPC comments

Review of Borden Parish Council commissioned Air Quality Assessment

- 5.1 The University of Kent (UoK) were commissioned by Borden Parish Council (BPC) to carry out air quality monitoring and analysis for the area between Borden Village and Sittingbourne in the vicinity of the Wises Lane site.
- 5.2 The assessment of air quality in the vicinity of the development was undertaken for:
- ☛ PM_{2.5} and PM₁₀
 - measured at the two locations between 24/02/2018 and 11/03/2018 during the morning peak hours of 07:00 and 09:00 and evening peak hours of 16:30 and 18:30.
 - using Dylos DC1700 particulate monitors
 - ☛ NO₂
 - was measured at ten locations for a period of 63 days from 21/02/2018 until 25/04/2018
 - using diffusion tubes. Diffusion tube results were bias-corrected with a value of 0.8 taken from Swale Borough Council's 2016 Air Quality Annual Status Report.
- 5.3 The measurement locations were selected to be similar to the Wises Lane AQA receptor locations. The location of the sites indicated in the figures (8, 18,19) show sites were on roadside locations, not at locations of sensitive receptors i.e residential or hospital/school facades.
- 5.4 The measurements were compared to both EU and WHO annual exposure limits for the pollutants.
- Comments:**
- 5.5 The assessment referenced measurements which were short-period measurements that cannot be compared to annual exposure limits. DEFRA technical guidance requires a minimum of 3- months of continuous monitoring in order to obtain representative pollutant concentrations.

APPENDIX 5

- 5.6 Measurement sites were not at sensitive receptor locations as per the Wisers Lane AQA. Pollutant concentrations drop off rapidly with distance from the roadside to receptors, therefore a comparison of 2018 results to 2025 modelled results is not valid.
- 5.7 The Dylos DC1700 particulate monitors do not have “MCERTS for UK Particulate Matter” certification used for monitoring particulates.
- 5.8 The UoK assessment compared 2018 results to 2025 modelled results, the two cannot be compared. Emissions and background concentrations will be dramatically reduced by 2025 as cleaner vehicles enter the national fleet (EVs etc) and UK background sources improve. This is recognised in Defra emissions projections.
- 5.9 In planning and air quality terms WHO guideline values are not relevant. UK Air Quality Standards (AQS) are the reference standards used for assessing impacts in the UK.

Review of Borden Parish Council Comments

- 5.10 The following comments from BPC are reviewed :
1. *‘Real values of both nitrogen dioxide and particulates, for some localities, exceed the 2025 “worst case” predictions for these pollutants posited by the developer after completion of development.’*
 2. *‘Both pollutants were observed at levels which are harmful to health, and measured levels for both PM2.5 and PM10 exceed World Health Organisation guidelines for health.’*
 3. *‘In summary: (i) the modelling used by the developer is not fit for purpose (ii) the negative impact of existing air quality exceeds guidelines for health (iii) the additional negative impact of the proposed development underestimates the likely true impact on health (or is simply incorrect).’*
- 5.11 BPC are commenting on 2018 concentrations from roadside locations and not relevant sensitive locations and are not comparable annual average results (as stated in 5.5).
- 5.12 WHO limits are not relevant (see 5.4).
- 5.13 The final summary does not stand following on from the previous points.

APPENDIX 5**Summary**

- 5.14 The AQA undertaken by UoK for BCP provided limited data for comparison to the AQA data provided by the Wisers Lane assessment. The measurements were not comparable due to the short-period of measurements, the particulate monitoring equipment used was not appropriate and the locations of measurement were not at sensitive receptor locations.
- 5.15 The results are not comparable to 2025 (verified) modelled outputs and are not representative of air quality in 2018 nor comparable to 2025.

APPENDIX 5

6. Manor Farm Air Quality comments review.

- 6.1 The Manor Farm Outline application³ was submitted without an AQA and the following comments were provided by the Council's Environmental Protection Team (EPT) Leader:

File Note – Manor Farm, Sittingbourne (17/500727/OUT)

Environmental Health comments

Further to Environmental Protection Team (EPT) memo on 16th May 2017, discussed with Steve Wilcock on 16th August 2017.

Given that neither the site itself or the adjacent parts of the A249 and A2 are designated as AQMAs, the Council does not have data in respect of levels of air pollution at the site or in the vicinity of it. It was agreed that in the circumstances and mindful that air quality is not specified as an issue / matter to be addressed in the Local Plan 2017 policy relating to the site (Policy A21(2)), the EPT would not request the imposition of a planning condition / s106 clause relating to air quality at the site.

- 6.2 The comments provided by the EPT Leader identified:
- ☞ that the site is not within an AQMA or adjacent to major sources of pollutants i.e. the A2 or A249;
 - ☞ data was not available at this location in this rural location, which is as for other rural locations across Swale, not an area or location where the Council has concerns for air quality; and
 - ☞ due to its size, type and location, conditions or s106 contributions regarding air quality are relevant.
- 6.3 Following UK guidance from IAQM (Land-Use Planning & Development Control: Planning for Air Quality) the development would be assessed or scoped out for an AQA. The guidance steps through a 2-stage process.
- 6.4 Stage 1 (Table 6.1) identifies that the development is sized at “10 or more residential units or a site area of more than 0.5ha”, therefore needs to go to Stage 2.
- 6.5 Stage 2 criteria (Table 6.2) to scope in or scope out a development follows:
- ☞ is the development within or adjacent to an AQMA;

³ 17/500727/OUT - Outline application for residential development for up to 50 dwellings - Manor Farm Key Street Sittingbourne Kent ME10 1YU

APPENDIX 5

- ☞ will LDV flows increase >500AADT or HDV or buses >100 AADT;
- ☞ major re-alignment of roads (>5m) within an AQMA required;
- ☞ are there major junction changes required;
- ☞ is there a major car-park required;
- ☞ is significant combustion plant planned within the development;

6.6 IAQM guidance states that:

“if none of the criteria are met then there should be no requirement to carry out an air quality assessment for the impact of the proposed development on the local area, and the impacts can be considered to have insignificant effects.”

6.7 None of the IAQM guidance criteria are met, therefore an AQA would not be required.

Summary

6.8 Given the location, the type and size of development it was assessed that an AQA for this development would not be required.

6.9 The IAQM guidance also scopes out the requirement for an AQA.

APPENDIX 5

7. Review summary and recommendations

Review summary

- 7.1 The current background air quality in the vicinity of the proposed Manor Farm and Wises Lane proposed developments are well below the AQS for all pollutants. Additionally, the proposed development locations are not within an AQMA.
- 7.2 The review of the Wises Lane AQA concluded that the assessment was robust and followed guidance and methodologies required for the assessment of air quality in such developments.
- 7.3 The review of the BPC commissioned air quality monitoring and analysis by UoK highlighted the deficiencies in the assessment and comparison of results. The study was limited to short-period measurements and these cannot be used to compare UK AQS's. Simple comparisons from 2018 to 2025 verified modelled results are not valid.
- 7.4 The BPC statements were based on the results of the UoK study and therefore cannot be substantiated.
- 7.5 The comments from the Council's Environmental Protection Team (EPT) Leader regarding the need for an AQA for the Manor Farm application are valid. UK (IAQM) guidance scopes out the need for an AQA following best practice criteria.

Recommendations

- 7.6 It is recommended that the AQA for Wises Lane is appropriate and robust. The BPC comments and supporting assessment are not substantiated and do not provide supporting evidence to rebuff the Wises Lane AQA.
- 7.7 The Council's Environmental Protection Team (EPT) Leader's statement is valid and no AQA would be required following best practice guidance.

APPENDIX 5



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