

**PLANNING COMMITTEE – 15 AUGUST 2019****PART 3**

Report of the Head of Planning

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

<b>3.1 REFERENCE NO - 19/500764/OUT</b>			
<b>APPLICATION PROPOSAL</b>			
Outline application (all matters reserved except access) for the demolition of former farm building/garage and erection of 10no. two, three and four bedroom dwellings with garages, associated landscaping and parking, together with new access and part widening of Breach Lane.			
<b>ADDRESS</b> Land Adjoining Westfield House Breach Lane Lower Halstow Kent ME9 7AA			
<b>RECOMMENDATION</b> Refusal			
<b>SUMMARY OF REASONS FOR REFUSAL</b>			
The proposed development represents unsustainable development and therefore fails to comply with the requirements of paragraph 8, 11 and 79 of the National Planning Policy Framework 2018.			
Future occupiers would be largely dependent on the private car to access a wider range of facilities and to meet everyday needs, and the proposal would have a harmful impact upon the character and appearance of the rural area and countryside. This harm, both significantly and demonstrably, outweighs any benefits from the proposal.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Called in by Cllr. Woodford irrespective of the officer recommendation			
<b>WARD</b> Bobbing, Iwade And Lower Halstow	<b>PARISH/TOWN COUNCIL</b> Lower Halstow	<b>APPLICANT</b> Mr & Mrs Keith Tress <b>AGENT</b> Penshurst Planning Ltd	
<b>DECISION DUE DATE</b> EoT: 23/08/2019	<b>PUBLICITY EXPIRY DATE</b> 14/06/19	<b>OFFICER SITE VISIT DATE</b> 17/05/2019	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
17/502046/OUT	Outline application (Some Matters Reserved) for erection of nine dwellings and garages, new access, with associated landscaping and parking - Access to be sought at this stage.	Refused	11.07.2017
<i>Summarise Reasons</i>			
1. <i>The application site is located outside of the built confines of Lower Halstow and within the open countryside where the Council's adopted and emerging Local Plan policies aim to restrict residential development other than in specific circumstances. The proposed development would fail to protect the intrinsic value, tranquillity and beauty of the countryside by virtue of its location and likely layout and form, and would be contrary to policies ST3, CP3, CP4 and DM14 of the emerging Swale Borough Local Plan "Bearing Fruits 2031", and policies E1 and E19 of the adopted Swale Borough Local Plan.</i>			

2. *The Reptile Survey submitted with the application does not accord with Natural England standing advice regarding the number of visits required to establish a population estimate, and does not provide sufficient information on the location or suitability of an off site receptor site. On this basis, the survey fails to suitably demonstrate the presence of protected species on the site, or adequate mitigation measures. This would be harmful to biodiversity and contrary to policies E11 of the adopted Swale Borough Local Plan 2008 and DM28 of the emerging Swale Borough Local Plan "Bearing Fruits 2031".*

## 1. DESCRIPTION OF SITE

- 1.1 The application site relates to two parcels of land on the west side of Breach Lane. The parcels are separated by a dwelling at Westfield House.
- 1.2 Both parcels are essentially flat and open although there is natural landscaping and scrub on both sites, including scrub with small-medium trees (hawthorn, elder, English elm, willow) on the western boundary of the northern site and some small fruit trees on the southern site. The north parcel has a small building on the west side, and some former areas of hardstanding which are overgrown and disused. The planning statement submitted with the application explains that the southern site was formerly used as allotments and the building / hardstanding on the northern site was in connection with agriculture and informal car parking. The application form notes the allotment use ceased in 2014 and the car park circa 2006.
- 1.3 Breach Lane runs to the east of the northern parcel and to the east and south of the southern parcel. There are residential dwellings situated on the opposite side of Breach Lane, including a row of 17 no. two storey terraced dwellings known as Westfield Cottages situated opposite the proposal sites.
- 1.4 The sites are located approx. 170m to the south of Lower Halstow, and fall outside of the built confines of the village. The village of Lower Halstow includes the following facilities; primary school, pre-school, recreation ground including play equipment, church, community hall, retail convenience store, public house, sports club (including cricket and yacht), bed and breakfast accommodations, building trade services.
- 1.5 There is a public right of way (footpath, ZR43) situated to the north of the site.

## 2. PROPOSAL

- 2.1 This is an outline planning application for the demolition of a former farm building/garage and erection of 10 no. two, three and four bedroom dwellings with garages, associated landscaping and parking, together with new access and part widening of Breach Lane. All matters other than access are reserved for future consideration.
- 2.2 The proposed development would have a density of 19 dwellings per hectare across the two sites combined.
- 2.3 Indicative plans have been submitted which show that six dwellings could be accommodated on the southern parcel (site A) and four dwellings on the northern

parcel (site B). The dwellings would be a mix of detached and semi-detached properties with some dwelling having detached garages. The proposed mix would 2 x 2 bed semi-detached dwellings, 4 x 3 bed semi-detached dwellings and 4 x 4 bed detached dwellings. An indicative plan showing street scene views outlines that the dwellings would be two storey in form with a mix of building heights and form. Sites A & B would have independent vehicular accesses from Breach Lane.

- 2.4 The submitted plans and information show the widening of Breach Lane along the eastern sections of sites A & B, which would be widened by up to 2m resulting in a maximum width of 7.5m. The section of highway to the east of Westfield House would not be widened. The proposals includes the provision of a pedestrian footway and tactile pedestrian crossover points on both sites A & B which would connect to the existing footpath on the opposite side of Breach Lane which would be altered by a dropped kerb and tactile paving.
- 2.5 The supporting information outlines that the proposed housing would enable, fund and deliver the highway improvements with regard to reducing road safety risks and improving traffic flow along this stretch of Breach Lane
- 2.6 As noted above, a previous outline application for 9 dwellings on the site was refused under application reference 17/502046/OUT. This application was refused for the following reasons:
1. *The application site is located outside of the built confines of Lower Halstow and within the open countryside where the Council's adopted and emerging Local Plan policies aim to restrict residential development other than in specific circumstances. The proposed development would fail to protect the intrinsic value, tranquillity and beauty of the countryside by virtue of its location and likely layout and form, and would be contrary to policies ST3, CP3, CP4 and DM14 of the emerging Swale Borough Local Plan "Bearing Fruits 2031", and policies E1 and E19 of the adopted Swale Borough Local Plan.*
  2. *The Reptile Survey submitted with the application does not accord with Natural England standing advice regarding the number of visits required to establish a population estimate, and does not provide sufficient information on the location or suitability of an off site receptor site. On this basis, the survey fails to suitably demonstrate the presence of protected species on the site, or adequate mitigation measures. This would be harmful to biodiversity and contrary to policies E11 of the adopted Swale Borough Local Plan 2008 and DM28 of the emerging Swale Borough Local Plan "Bearing Fruits 2031".*
- 2.7 The current application proposes an additional dwelling on site to be situated in the southern parcel (site A). In contrast to the previous application the proposal also includes alterations to Breach Lane such as the part widening of Breach Lane.

### 3. SUMMARY INFORMATION

	Existing	Refused 17/502046/OUT	Proposed	Change (+/-)
Site Area (ha)	0.53	0.53	0.53	N/A
Approximate Ridge	4.5m	7m - 9.5m	7m - 9.5m	+2.5m - 5m

Height (m)				
Approximate Eaves Height (m)	3m	5m - 5.4m	5m - 5.4m	+2m - 2.4m
No. of Storeys	1	2	2	+ 1
Parking Spaces	0	18	27	+ 27
No. of Residential Units	0	9	10	+ 10
No. of Affordable Units	0	0	0	0

#### 4. PLANNING CONSTRAINTS

Rights of way – (footpath, ZR43) situated to the north of the site.

#### 5. POLICY AND CONSIDERATIONS

5.1 The National Planning Policy Framework (NPPF): Paragraphs 8 (sustainable development); 11 (The presumption in favour of sustainable development); 55 (re-use of redundant buildings); 59 – 76 (delivering a sufficient supply of homes); 77 – 79 (Rural housing); 127 and 130 (good design); 148 (transition to low carbon future); 165 (sustainable drainage systems); 170 (enhance the natural and local environment) are relevant to this proposal.

5.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017 – Policies ST1 (delivering sustainable development in Swale); ST3 (the Swale settlement strategy); ST4 (Meeting the Local Plan development targets); ST5 (The Sittingbourne area strategy); CP2 (Promoting sustainable transport); CP3 (Delivering a wide choice of high quality homes); CP4 (Requiring good design); DM6 (managing transport demand and impact); DM7 (Vehicle parking); DM14 (general development criteria); DM19 (Sustainable design and construction); DM21 (sustainable drainage / flood mitigation); DM24 (conserving and enhancing valued landscapes); DM28 (biodiversity conservation); DM29 (Woodlands, trees and hedges); DM31 (agricultural land).

5.3 Landscape SPD – Swale Landscape Character and Biodiversity Appraisal 2011. The site falls within character area 32: Upchurch and Lower Halstow which falls within the Fruit Belt Landscape Types. The landscape condition is described as 'moderate' with a 'moderate' sensitivity. The guidelines for this area are to conserve and create.

#### 6. LOCAL REPRESENTATIONS

6.1 Sixteen letters and emails of objection have been received. Their content may be summarised as follows:

- Does not overcome first reason of refusal for 17/502046/OUT
- Contrary to policies ST3, CP3, CP4 and DM14 of the emerging Swale Borough Local Plan "Bearing Fruits 2031", and policies E1 and E19 of the adopted Swale Borough Local Plan.
- Contrary to NPPF (paras 136, 137, 138 and 140)
- Not sustainable development
- Harm the character of the area; fails to reflect local character; contrary to pattern of development in area
- Fail to protect the intrinsic value, tranquillity and beauty of the countryside by virtue of location, layout and form.
- Overdevelopment of site

- Insufficient space for landscaping
- Harm to residential amenity: loss of privacy and overlooking; noise; loss of light
- Harm to outlook
- Lack of existing parking and increased pressure on parking
- Lack of parking within site; residents and visitor; construction vehicles
- Local public transport is limited resulting in reliance on car
- Increased traffic
- Increased highway safety risk along Breach Lane; new access points; lack of visibility and sight lines; increased dwellings; blind bend/corners; pinch point and bottleneck next to Westfield House
- Lack of infrastructure; sewers; footpath
- Increased pressure on services; nursery and primary school; doctors surgeries
- Harm to wildlife: water voles; birds; bees; rabbits; owls; bats; removal of trees
- Loss of agricultural land
- Loss of greenfield land (referred to as green belt land in representations)
- New housing will not be affordable
- Reduction in house value
- Breach Lane already floods, flood risk would increase due to additional surface water and foul water drainage
- Set a precedent to develop greenfield sites
- Contrary to Human Rights Act (Protocol 1)

6.2 Five letters and emails of support have been received. Their content may be summarised as follows:

- Suitably designed
- Affordable housing needed
- Site currently untidy and eyesore
- Village will be enhanced
- Benefit local businesses
- Suitable for young/first time buyers
- Good choice of local schools nearby
- Retain younger families within village
- Road widening will be a benefit; for both vehicular users and pedestrians
- Improve highway safety
- Site has sufficient parking ensuring no on-street parking on Breach Lane from development site
- Little impact on Westfield residents
- Reduce traffic
- Alternative is selling to travelling community

## 7. CONSULTATIONS

7.1 **Lower Halstow Parish Council** Object for the following summarised reasons:

03/04/2019 and 26/07/2019:

- *Outside the built up area of Lower Halstow as defined in the Swale Plan*
- *Insufficient parking in the area*

7.2 **Natural England** raise no objection

*18/03/2019: Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).*

**7.3 NHS; Swale Clinical Commissioning Group** raise no objection.

*05/04/2019: Requested a S.106 financial contribution of £360 per new resident (£360 x 24) which equates to a financial contribution of £8640 towards expanding existing facilities within the vicinity of the development.*

**7.4 Southern Water** raised no objection.

*20/03/2019: Requested informative regarding connection to public sewerage system if the application is approved. Southern Water note there is a communication pipe on site.*

**7.5 KCC Drainage** – Initial response recommend that the application is not determined until ‘a complete surface water drainage strategy’ has been provided (01/07/2019)

*05/03/2019: No surface water drainage strategy has been provided. We would therefore recommend the application is not determined until a complete surface water drainage strategy has been provided for review.*

*01/07/2019: Subsequent response advised no objection in the principle to the development. Note that the half drain times provided for the 100 year storm events have a considerable time frame to drain down. We ask that the design is reviewed to reduce the half drain times and additional calculations are submitted to demonstrate that the half drain time for the 30 year storm events are below 24 hours. We would accept for this to be demonstrated at the time of a reserved matters application. Raise no objection subject to conditions regarding surface water drainage and a detailed sustainable surface water drainage scheme.*

**7.6 KCC Ecology** – No objection subject to conditions

*21/03/2019: We are satisfied that an appropriate level of ecological survey work has been carried out at this time but advise that clarification is sought regarding the proposed reptile mitigation. Clarification is sought regarding the effort to seek potential receptor sites near/adjacent the proposed development site.*

*The detailed mitigation strategy for the site can be secured by a condition requiring the submission and implementation of a Biodiversity Method Statement.*

*A condition requiring the submission and implementation of an Ecological Design Strategy will ensure that the proposed development provides opportunities for wildlife by retaining boundary habitats and providing enhancements as recommended within the Preliminary Ecological Appraisal.*

*A condition requiring a bat-sensitive lighting strategy will help to minimise potential impacts to foraging and commuting bats in the area.*

*The development includes proposals for new dwellings within the zone of influence (6km) of The Swale Special Protection Area (SPAs) and Wetland of International Importance under the Ramsar Convention (Ramsar Site). Swale Borough Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMM) to mitigate for*

*additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation*

*05/04/2019: I have reviewed the information (regarding receptor sites) and the justification for site selection is fine. In terms of the potential need for a reptile survey, given the relatively recent habitat creation (assuming it was completed last year?) and that no reptiles have as yet been translocated, I don't think a reptile survey is necessary at this time. I can't recall whether any monitoring is included within the mitigation strategy but this would be advisable if not.*

#### **7.7 KCC Highways and Transportation – No objection**

*22/03/2019: this application does not seek to materially alter access matters from the proposals under application ref. SW/17/502046/OUT, which was considered acceptable by us. The proposed road widening is recognized as a measure that will further strengthen the application in terms of accessibility and resultant highway safety and capacity, as well as providing a benefit to local road users. I would, however, wish to make the following observations on the plans:*

*1) The proposed road widening could possibly lead to an assumption on the part of local residents, that Breach Lane could then accommodate on-street parking on both sides, which would negate the benefits being offered by the scheme. I would suggest that the possibility of double yellow lines along the site frontages be investigated by way of a best endeavours condition or similar, along with the removal of such at mouth of the access to Site B.*

*2) I support the findings of the submitted Road Safety Audit although we would request to see details of the speed survey and other changes, as alluded to in the designer's response.*

*3) I would also like confirmation on a plan of the proposed surface treatment of the access roads.*

*Otherwise, I am confident that the layout as presented will preclude parking overspill onto Breach Lane, although such matters can be fully addressed at the reserved matters stage*

*13/06/2019: Further to my previous comments dated 22nd March 2019 I confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no further objection on behalf of the local highway authority;*

- the submission of a construction management plan;*
- completion and maintenance of the access prior to the use of the site;*
- provision and maintenance of visibility splays;*
- measures to prevent discharge of surface water onto the highway;*
- highway works as shown in Drawing 1076-SK03A will need to be delivered by the applicant via a Section 278 agreement with this authority prior to the use of the site commencing.*

- 17/06/2019: Further to previous comments, KCC Highways note that the offer to apply for a Traffic Regulation Order (TRO) on the east side of Breach Lane alongside no. 18, as per 4.3.1 in the design response to the Stage 1 RSA, is not a measure that KCC Highways would consider necessary in order to make the highway improvements and proposed pedestrian crossings acceptable. KCC Highways are of the view that although these are important in linking the development to the wider footway network the number of actual users would not necessitate more intensive measures that may compromise the availability of on-street parking for local residents.

7.8 **Kent Police** raise no objection (21/03/2019)

7.9 **Environmental Protection Team Leader** raises no objection

18/03/2019: No objection subject to conditions seeking further details for land contamination and programme for dust suppression to be sought via condition. Conditions also requested for construction hours and asbestos.

## 8. BACKGROUND PAPERS AND PLANS

8.1 The application has been supported by a site location plan; existing plans and highway network; a proposed block plan; illustrative street scene; proposed highway alterations and surface water drainage scheme. The application has been supported by a traffic survey; preliminary ecology appraisal; reptile mitigation strategy; ecological enhancement strategy and management plan; planning design and access statement; planning design and access statement addendum; surface water drainage scheme; agent letter to KCC Highways. The application has also been supported by historic maps, aerial images and photographs.

## 9. APPRAISAL

### Principle of Development and Visual Impact

- 9.1 The site is located outside of the built area boundary of Lower Halstow. The main relevant planning policy is ST3 of the Local Plan, which states that at locations in the open countryside outside the defined built up area boundaries, development will not be permitted unless supported by national policy and where it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities.
- 9.2 The National Planning Policy Guidance (NPPF) seeks to promote sustainable development in rural areas, and housing should be located where it will enhance or maintain the vitality of rural communities and avoid isolated new homes in the countryside.
- 9.3 Paragraph 79 of the NPPF states that the local planning authority (LPA) should avoid isolated homes in the countryside unless one or more of the following circumstances apply:
- a) *there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
  - b) *the development would represent the optimal viable use of a heritage asset or*



- would be appropriate enabling development to secure the future of heritage assets;*
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) the development would involve the subdivision of an existing residential dwelling; or*
- e) the design is of exceptional quality, in that it:*
  - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

- 9.4 It is considered that the proposal would not meet with any of these circumstances.
- 9.5 Paragraphs 11 and 73 of the NPPF requires the Council to meet the full, objectively assessed needs (OAN) for housing and other uses as well as any needs that cannot be met within neighbouring areas. In addition, the Council should annually update a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional 5% buffer. The Council's latest position was published in February 2019 following the publication of the Housing Delivery Test (HDT) that saw the Council meeting 74% of its requirement. As a result, a 20% buffer (rather than a 5%) buffer must be applied to the housing land supply figures in assessing the 5 year HLS position. To this end, the Council can demonstrate a supply of 4.6 years and therefore cannot demonstrate a 5 year housing supply. In such situations the NPPF advises that plans and decisions should apply a presumption in favour of sustainable development. For making decisions this means that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

*11.d) i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or 11.d) ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 9.6 The application falls to be considered under ii), as there are no restrictive policies under i) that are relevant to this site. Therefore it needs to be considered whether the proposal constitutes sustainable development.
- 9.7 Para 11 of the NPPF details that there is a presumption in favour of sustainable development which should be seen as a golden thread running through decision taking.
- 9.8 Para 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways:
- a) an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
  - b) a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of

present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

- 9.9 Paragraph 8 of the NPPF sets out in c) that part of the environmental objective of sustainable development is to move to a low carbon economy. Paragraph 78 states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It can be seen that sustainability is thus a multi-faceted and broad-based concept. It is often necessary to weigh certain attributes against each other in order to arrive at a balanced position.

#### *Environmental Role*

- 9.10 With regard to the proposed dwellings, a key consideration is whether future occupants of the dwellings would be likely to meet some/all day-to-day needs by walking to facilities, therefore reducing the need to travel by private car which would reduce greenhouse gas emissions (para 148 of the NPPF).
- 9.11 The site sits outside the built up settlement boundary of Lower Halstow and is situated within the open countryside. Of relevance if the settlement hierarchy strategy outlined in the adopted Local Plan. Lower Halstow and nearby Upchurch are small villages with a limited range of shops and services, they are identified as tier 5 settlements, below Rural Local Service Centres because it has a more limited range of shops and services and populations will need to travel to other centres for more major shopping, leisure and employment needs and to meet some day-to-day needs.
- 9.12 The site sits outside the built up settlement boundary of Lower Halstow. The site is approximately 170m from the edge of the settlement boundary accessed via Breach Lane, which has a footpath on the opposite side of the highway, alternatively the site is approximately 370m from the edge of the settlement boundary accessed via Breach Lane and public footpath ZR43 which is across a field. Both routes are unlit until the settlement boundary. The supporting information notes there is a bus stop to the north of site B, however this was not evident from the site visit, and therefore whilst the bus route is via Breach Lane, it appears the closest bus stops are near The Street, approximately 0.56km (0.35miles) from the site. Lower Halstow is serviced by routes 327 (Sittingbourne – Chatham and vice versa), route 328 (Upchurch – Sittingbourne) and 372 (school service to Sittingbourne). Across the non school bus routes the frequency varies with approximately one service every two hours towards Rainham/Chatham (between 7.30am-9.30am and 1pm-3.30pm or 5.30pm on non-school days) and one service every two hours towards Sittingbourne (between 7.30am-9.30am and 2pm-4pm or 6pm on non-school days). The level of bus services is less frequent at weekends, with no services on bank holidays.
- 9.13 The nearest settlement that offers a wider range of services including a train station is the village of Newington which is approximately 2.7km from the site. However, there are

infrequent bus services between Newington and Lower Halstow, nor are there safe/convenient facilities to access Newington for pedestrians or cyclists.

- 9.14 Taking into account the above, it is considered that the location of the site is distant from main public transport routes and services and it is considered that any future residents of the site would be heavily reliant on the use of the car, especially due to the lack of a lit footpath until the settlement boundary and limited public transport options. As such it is considered that re-development of the site for housing would be contrary to the Council's settlement strategy which requires residential development to be steered to sustainable locations. I therefore find that the site would not be a suitable location for the proposed development, having regard to the settlement strategy and accessibility to services and facilities. It would thus be in conflict with policies ST1 and ST3 of the Local Plan, which seek, amongst other matters, to deliver sustainable development that accords with the settlement strategy by restricting development in the open countryside. Therefore the proposal would not contribute toward a move to a low carbon future as advocated by paragraph 148 of the NPPF. This is considered to be a significant negative in terms of whether the proposal comprises sustainable development, and a significant adverse impact.
- 9.15 As evident from the site visit, Site A is comprised of unmanaged natural landscaping including grass, shrub and tree cover and is not considered to be brownfield or previously developed land. Site B previously had areas of hardstanding which is now overgrown, and there is an outbuilding on part of the site which the supporting information notes was last in use as a garage. The NPPF definition of brownfield / previously developed land in Annex 2 excludes *'land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'* The existing outbuilding would be considered previously developed, however the remainder of the site due to its current overgrown condition falls within this description and as such should not be classified as brownfield or previously developed land. Therefore the majority of the development would take place on an undeveloped site which is considered would have a significant adverse impact.

#### *Social and Economic Role*

- 9.16 The proposal is for 10 dwellings ( 2 x 2 bed, 4 x 3 bed and 4 x 4 bed) which would be of some social benefit. As outlined above, the site falls outside the settlement boundary of Lower Halstow and is situated away from the limited services within the village. Furthermore the site is considered to be poorly related to larger settlements including the Rural Service Centre at Newington, or the larger settlements of Sittingbourne and Rainham. So whilst future occupiers would make some contribution to the social vitality of these settlements, as they are likely to rely on services outside the area, such as secondary schools, healthcare and employment it is not considered that this would be significant. It is considered that there would be a neutral impact.
- 9.17 As economic benefits from the construction of these dwellings would be short-term, these are limited and would carry little weight. It is considered that there would be a neutral impact.
- 9.18 The proposed highway works in terms of road widening and inclusion of two pedestrian crossings have been put forward as enabling development to justify the proposed residential dwellings. The proposed road widening would provide a small scale

localised benefit, however it is not considered that this scale of residential development would require such alterations to the existing highway network. KCC Highways have confirmed that if the scheme did not include the proposed highway alterations, that they would not raise an objection to the development, nor would they seek such works as a requirement. Whilst there would be a small localised benefit, this must be weighed up against the significant harm the development would create and it is not considered that this would outweigh the significant harm caused.

#### *Principle of Development Summary*

- 9.19 The proposal site is considered to be in an unsustainable location. Whilst a small part of the site is previously development land, the majority of the site comprises undeveloped land. Furthermore future occupiers would be largely dependent on the private car to access a wider range of facilities and to meet everyday needs which is considered to be a significant negative impact. The proposal is considered to have a harmful impact upon the character and appearance of the rural area and countryside (addressed below in visual impact section). The social and economic benefits of the additional dwellings are considered to be neutral. When assessed against para 11 of the NPPF, it is considered that the adverse impacts in terms of conflict with the environmental objectives of the Framework significantly and demonstrably outweigh the benefits of the proposal, even when the housing deficit and proposed road widening is considered. As such, the proposal is not considered to comprise sustainable development, and the principle of this development is not considered acceptable.

#### *Visual Impact (Environmental)*

- 9.20 The two sites are open, undeveloped and rural in character and appearance. They form part of the generally open landscape to the south of Lower Halstow, with the line of terraced cottages to the east of the sites being the exception to this. Notwithstanding this, the area is open and rural in character.
- 9.21 The development of these two sites would have an urbanising impact on the area harmful to the character and appearance of the countryside. Furthermore, notwithstanding that this is an outline application; I consider the nature of the development proposed would be low density, sprawling and suburban in character. This would be alien to the compact terraces opposite and to the more simple and organic built form that normally characterises rural areas.
- 9.22 Policies ST3, CP3, CP4, DM14 and DM24 of the Local Plan seek to ensure that development is steered to the right locations, is of high quality design appropriate to its context, and strengthens / reinforces local distinctiveness. The development of housing in this location would not be appropriate to its rural context and would harm the character and appearance and intrinsic value, beauty and functioning of the countryside. In addition, the likely form of the units would fail to reinforce local distinctiveness and, as such, would be contrary to the above policies. This is considered to be a significant negative impact and would be contrary to the aims of paragraphs 127, 130 and 170 of the NPPF as it would not significantly enhance its immediate setting, and it would not be sensitive to the defining characteristics of the local area due to the harmful impact on the countryside and contrary to the aims of the Swale Landscape Character and Biodiversity Appraisal 2011 SPD which seeks to restore the rural environment whilst creating a landscape structure that will improve the

areas strength of character. The landscape harm would not be outweighed by contributions to housing supply.

### **Residential Amenity**

- 9.23 DM14 of the Local Plan states that all developments should cause no significant harm to the amenities of surrounding uses or area. The detailed scheme for the new dwellings would be secured at the reserved matters stage and this will include the design and form of the dwellings including details such as window/door placement and details of boundary treatments.
- 9.24 The closest residential property is Westfield House which is sandwiched in between the two sites subject to this application. Whilst layout and design are matters for future consideration, the application shows an illustrative layout which avoids any direct overlooking of this property, and a good degree of space can be maintained between it and the development.
- 9.25 The properties on the opposite side of Breach Lane would be in direct view of the development. However impact on views is not a material planning consideration. Again, the illustrative layout as shown indicates that good separation distances and appropriate layouts could be created to avoid any unacceptable impacts on these existing properties.
- 9.26 Taking the above into account, it is considered that the development could be designed to avoid unacceptable impacts on neighbours, and comply with the above policies.

### **Highways and Parking**

- 9.27 Comments received by neighbours raise concerns regarding highway safety, increased traffic, lack of existing parking provision and increased pressure on parking resulting from the proposed development.
- 9.28 The proposed access and parking arrangements for the sites are similar to the previous application (17/502046/OUT), but the previous application did not include any road widening. The previous assessment is relevant to this current application, and under 17/502046/OUT KCC Highways did not object to the application on highways safety grounds. Nor was any objection raised to the location of the access points to each site. It was also concluded due to the low density of the development and sufficient space for on site parking provision that the development would not be likely to increase parking pressure on Breach Lane or displace existing parking. It should be noted that the proposed road widening did not form part of the previous application; furthermore, KCC Highways did not request this as a requirement to facilitate the development. The previous application did not include a reason for refusal on the grounds of highway safety or lack of parking provision.
- 9.29 KCC Highways confirmed under this application that the proposed vehicular access points remain acceptable. Furthermore KCC Highways have outlined they would not raise an objection to the application on accessibility or highways safety grounds if the proposed road widening was omitted from the scheme. The current scheme would have a similar impact in terms of access to the previously refused scheme, this is due to the small scale of the development, associated traffic movements and suitable level of visibility available at the vehicular access points, and thus it is not considered that the

level of development would necessitate the proposed road widening scheme. The supporting information outlines that the proposed highways works should be considered as enabling development to justify the proposed housing on the site. However for the reasons outlined above, the Council do not consider that the highways works are necessary in terms of highways safety or access.

- 9.30 Notwithstanding the above, KCC Highways outline that the road widening is a recognised measure that will strengthen the application in terms of accessibility and resultant highway safety and capacity, as well as providing a benefit to local road users. KCC Highways requested further information through the application process including the submission of details of the speed survey; surface treatment of the access roads; and consideration of double yellow lines along the site frontage. This information and an amended plan showing alterations to the highway was submitted which note the provision of double yellow lines along the western frontage, and pedestrian crossing points between the sites and existing footpath on the opposite side of Breach Lane. KCC Highways have confirmed they raise no objection to the application subject to conditions or planning obligations securing the submission of a construction management plan; completion and maintenance of the access prior to the use of the site; provision and maintenance of visibility splays; measures to prevent discharge of surface water onto the highway; and that the highway works as shown in Drawing 1076-SK03A will need to be delivered by the applicant via a Section 278 agreement with this authority prior to the use of the site commencing.
- 9.31 It should be noted that KCC Highways do not consider that the pedestrian crossing proposed at Site A is a measure which is necessary in order to make the highway improvements and proposed pedestrian crossings acceptable. KCC Highways are of the view that although these are important in linking the development to the wider footway network the number of actual users would not necessitate more intensive measures that may compromise the availability of on-street parking for local residents.
- 9.32 With regard to parking, the density of development as proposed is low and the layout indicated on the plans shows adequate provision (amounting to approximately a total of 27spaces) within both sites for car parking connected to the development. As such I do not consider it would be likely to increase parking pressure on Breach Lane or displace existing parking.
- 9.33 Policies DM6 and DM7 of the Local Plan seek to ensure that developments do not cause unacceptable highways impacts. Taking the above into account, I do not consider that the scheme would conflict with these policies.

### **Ecology**

- 9.34 Paragraph 174 of the NPPF 2018 advises that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. It also advises that opportunities to incorporate biodiversity in and around developments should be encouraged. The application has been supported by a Preliminary Ecological Appraisal and Reptile Mitigation Strategy which KCC Ecology are satisfied are the appropriate level of ecological survey work has been undertaken. KCC Ecology sought clarification regarding potential reptile receptor sites near/adjacent the proposed development site which the applicant provided and KCC Ecology confirmed the justification for receptor site selection was acceptable.

- 9.35 As such, KCC Ecology raise no objection to the proposed development subject to conditions seeking a detailed reptile mitigation strategy; submissions of an Ecological Design Strategy including ecological enhancements recommended in the Preliminary Ecological Appraisal; and a condition requiring a bat-sensitive lighting strategy.
- 9.36 The previous application was refused due to lack of sufficient information regarding reptiles in terms of identifying a population estimate and location or suitability of an off site receptor site. This information has been provided under this application, and it is considered the previous reason for refusal has been overcome.

### **Drainage**

- 9.37 The application has been supported by a surface water drainage strategy for the sites. KCC Drainage as the Lead Local Flood Authority raise no objection to the principle of development, and queried the half drain times for the 100 year storm event and that the design should be reviewed to reduce the half drain time and requiring additional calculations, and are satisfied this information can be demonstrated as part of a reserved matters application. As such, KCC Drainage raise no objection to the proposed development subject to conditions regarding surface water drainage and a detailed sustainable surface water drainage scheme. Therefore it is considered the proposed development would comply with policy DM21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and paragraph 165 of the NPPF.

### **Other Matters**

- 9.38 The NHS have requested a S.106 financial contribution of £360 per new resident (£360 x 24 – based on 2.4 persons per unit) to be used for the Maidstone Road Surgery. The consultation response is noted, however the development is for a net gain of 10 residential dwellings and therefore does not meet the threshold for S.106 developer financial contributions which is applicable from 11 or more dwellings.
- 9.39 Policy DM8 of the adopted Local Plan deals with affordable housing and sets out that in 'All other rural areas', which this site would be classified as, there is a requirement (on schemes of 11 dwellings or more) for 40% of the total units to be affordable. As the application is for 10 dwellings it would not meet this threshold and as such there is no requirement for affordable housing.

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

- 9.40 This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
- 9.41 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.

- 9.42 Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 9.43 In considering the European site interest, Natural England (NE) advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.
- 9.44 The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *"it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site."* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group (NKEPG).
- 9.45 NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.
- 9.46 In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.
- 9.47 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.
- 9.48 In the event of an approval, agreement would be required for the applicant to pay the SAMMS contribution.

## 10. CONCLUSION

- 10.1 The proposal site is considered to be in an unsustainable location. Whilst a small part of the site is previously development land, the majority of the site comprises undeveloped land. Future occupiers would be largely dependent of the private car to access a wider



range of facilities and to meet everyday needs which is considered to be a significant negative impact. The proposal is considered to have a harmful impact upon the character and appearance of the rural area and countryside. The social and economic benefits of the additional dwellings are considered to be neutral. Therefore it is considered that the development of a largely undeveloped site, harm to the character of the countryside and reliance on the private car would result in unsustainable form of development.

- 10.2 The proposed highway works in terms of road widening and inclusion of two pedestrian crossings have been put forward as enabling development to justify the proposed residential dwellings. The proposed road widening would provide a small scale localised benefit, however it is not considered that this scale of residential development would require such alterations to the existing highway network. KCC Highways have confirmed that if the scheme did not include the proposed highway alterations, that they would not raise an objection to the development, nor would they seek such works as a requirement. Whilst there would be a small localised benefit, this must be weighed up against the significant harm the development would create and it is not considered that this would outweigh the significant harm caused.
- 10.3 When assessed against para 11 of the NPPF, it is considered that the adverse impacts in terms of conflict with the environmental objectives of the Framework significantly and demonstrably outweigh the benefits of the proposal, even when the extent of the housing deficit is considered. Furthermore, it is not considered that the proposed highway works in terms of road widening justify inappropriate and unsustainable development. As such, the proposal is not considered to comprise sustainable development, and the principal of this development it not considered acceptable.
- 10.4 The proposal would not be considered to comply with any special circumstance outlined in paragraph 79 of the NPPF as it would not significantly enhance its immediate setting, nor would it be sensitive the defining characteristics of the local area.

## 11. RECOMMENDATION

REFUSE for the following reason:

### Reasons:

1. The proposed development represents unsustainable development and therefore fails to comply with the requirements of paragraph 8 and 79 of the National Planning Policy Framework 2018. By virtue of its location outside any well-defined urban boundary and remote from the nearest settlements where a good range of services are available, the lack of prospect of residents being able to integrate with the existing communities and the limited public transport to service the site which will result in a car dependent population. Furthermore the proposed development would fail to protect the intrinsic value, tranquillity and beauty of the countryside and rural context by virtue of its location and likely layout and form. This harm, both significantly and demonstrably, outweighs any benefits from the proposal (including its contribution to the overall supply of housing in the Borough). Development is therefore contrary to policies ST1, ST3, CP3, CP4, DM9, DM14, DM24 of the "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and would be contrary to paragraphs 8, 11, 79, 127, 130 and 170 of the National

Planning Policy Framework.

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

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.



**19/500764/OUT - Land adjoining Westfield House, Breach Lane, Lower Halstow ME9 7AA**  
Scale: 1:2500  
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