

2.2 14/500561/OUT**APPLICATION PROPOSAL**

Outline Planning permission (all matters except access reserved) - Residential redevelopment with provision of associated vehicular and pedestrian access, open space, drainage and services.

ADDRESS Former HBC Engineering Site Power Station Road Halfway Minster-on-sea Kent ME12 3AB

RECOMMENDATION Grant subject to conditions and the further views of Kent Highway Services, Housing Services, and the signing of a S106 agreement.

SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL

The development would amount to the provision of new residential dwellings within the defined built up area boundary, on a site identified by the SHLAA for residential development, and in a sustainable location, without giving rise to any serious amenity concerns. As such the proposal is considered to be in accordance with adopted local and national policies.

REASON FOR REFERRAL TO COMMITTEE

Local objections.

WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster	APPLICANT (Sheerness) Ltd AGENT	TBH
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DECISION DUE DATE 02/10/14	PUBLICITY EXPIRY DATE 02/10/14	OFFICER SITE VISIT DATE Various
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RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

App No	Proposal	Decision	Date
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SW/80/861	Erection of three storey office accommodation.	Approved	1980
SW/85/393	Two-storey extension to the existing factory	Approved	1985
SW/86/438	Outline planning permission for light industrial (Class III).	Approved	1986
SW/89/1356	Outline planning permission for a factory and warehousing	Approved	1989
SW/97/240	Extension to the existing factory and provision of new site entrance and service yard	Approved	1997
SW/01/0359	Change of use of Unit 6 (1st floor) from manufacturing to kitchen/restaurant and conference facilities.	Approved	2001
SW/03/1321	Change of use to education unit for fostering agency.	Approved	2003
SW/11/0915	Redevelopment of site to provide retail supermarket (Class A1) and petrol filling station.	Refused	2012

Planning permission was refused due to the cumulative negative impact of retail development on both this site and at Neats Court upon the viability, vitality and primary

retail function of Sheerness town centre. The application is explored in greater detail below.			
SW/11/1624	Outline planning permission for development of up to 46 dwellings on 1.4ha of the site.	Approved	2012
DN/13/0132	Demolition of buildings on site.	No objection raised	2014

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site comprises the former HBC Engineering site located on the north side of Power Station Road, at Halfway, approximately 2.5km south-east of Sheerness town centre and 3.5km west of Minster High Street. HBC Engineering closed approximately five years ago and the site has been vacant and derelict since. The site was cleared earlier this year further to the demolition notice referenced above, and is now level and devoid of any structures.
- 1.02 The site extends to approximately 9.4 acres / 3.9 ha, and is bound by metal fencing and gates on all sides.
- 1.03 The site is bounded to the north by open countryside; to the east by Sheerness Golf Club; and equestrian stables to the north-east accessed via Drove Road.
- 1.04 To the south, across Power Station Road, lies a modern residential development accessed via William Rigby Drive (roughly opposite the central site entrance). This residential development includes a children's play area and green open space enclosed by a low wooden fence on the western side of William Rigby Drive, immediately opposite the application site.
- 1.05 To the west of the site there are a number of light industrial / retail warehouses, including a retail warehouse ("Chainstore Discount Warehouse") which is constructed from a mixture of metal cladding and brick. The units are accessed from a dedicated private access further to the west along Power Station Road. A planning application for residential development of this site was received by the Council in 2011 (reference SW/11/0366), but the application was withdrawn prior to determination. A subsequent outline application (ref. SW/11/1624) with all matters except access reserved for erection of up to 46 dwellings on approximately 1.4ha of the site was approved by the Council in 2012.
- 1.06 The application site is accessed from Power Station Road which itself is accessed from is the A250 Halfway Road; that road providing a direct access into Sheerness town centre (the southern continuation of the High Street). Several bus routes run along Halfway Road connecting the site with Leysdown, Eastchurch, Minster, Sheerness, Queenborough and Rushenden.

- 1.07 The site lies within the urban area and, as stated, is a former industrial site. To the north lies Minster Marshes, an allocated regional and local site for biodiversity.
- 1.08 The site's current lawful use (Class B2 industrial) and all previous history relates to its use by HBC Engineering, which occupied the site until the business unfortunately went bankrupt five years ago. Though not entirely relevant to this proposal; the planning history for the application is listed below (and also above):
- SW/80/861: Grant of permission for three storey office accommodation.
 - SW/85/393: Grant of permission for two-storey extension to the existing factory.
 - SW/86/438: Grant of outline planning permission for light industrial (Class III).
 - SW/89/1356: Grant of outline planning permission for a factory and warehousing.
 - SW/97/240: Approval for an extension to the existing factory and provision of new site entrance and service yard.
 - SW/01/0359: Planning permission for change of use of Unit 6 (1st floor) from manufacturing to kitchen/restaurant and conference facilities.
 - SW/03/1321: Planning permission for change of use to education unit for fostering agency.
- 1.09 More recently, and perhaps more relevant to the current application is SW/11/0915, which in 2011 sought planning permission for the development of a retail food store (use class A1) and a petrol filling station. I understand that the store was intended to become a Sainsbury's supermarket.
- 1.10 That application was presented to Members at planning committee on the 8th December 2011, where Members voted to approve the application subject to the signing of a S106 agreement to secure financial contributions towards local services (including bus services, pedestrian and cycle route connections, and improvements to Sheerness High Street).
- 1.11 However, before the S106 was finalised there was a national policy change, with Planning Policy Statement 4 being replaced by the National Planning Policy Framework (NPPF). The NPPF required the submission of a Cumulative Retail Impact Assessment (CRIA) prior to determination, which was carried out by the Council after the applicant refused to do so. Furthermore the Neats Court retail scheme (ref. SW/11/0627) was also granted permission before the S106 was agreed.
- 1.12 The result of these two factors, in short, was that the CRIA identified that the cumulative impact of grant of permission on this site and at Neats Court would be seriously harmful to the viability and vitality of the existing retail function of Sheerness town centre.
- 1.13 As a result the recommendation was changed to a refusal, and the application was reported back to Members at the meeting on 20th December 2012.

Members agreed the recommendation and that scheme (for retail development of the site) was ultimately refused planning permission. It is important to note that this scheme was not refused on highway / traffic generation grounds; the substantial development having been found to be acceptable in this regard, with only modest changes required to the highway network in the vicinity.

- 1.14 As Members may also be aware, residential development of this site was considered at the pre-application stage (in April 2014) by the Design Panel. At that time the proposal was for 147 dwellings and a 5400 sq ft retail store.

2.0 PROPOSAL

- 2.01 The current application seeks outline planning permission, with all matters except access reserved for future consideration, for residential redevelopment of the site for no more than 142 dwellings, including provision of vehicular and pedestrian access, open space, site drainage and services.
- 2.02 The submitted drawings – which are indicative only – show 142 dwellings in a mix of two and three storey, with 2, 3, or 4 bedrooms, spread across the site. 225 parking spaces are also shown indicatively.
- 2.03 A single vehicle access from Power Station Road would be located at the western end of the site frontage, in the same position as the existing access. From this point a roughly circular internal estate road would run through the development, with a number of small spur roads leading to parking areas.
- 2.04 The proposed indicative layout shows houses are set away from the northern boundary of the site to allow room for landscaping and to provide a buffer between the proposed development and the open countryside to the north. Four separate areas of public open space / amenity land would run approximately SW – NE through the site, broken up by the estate roads.
- 2.05 A 5m wide access strip would be retained along part of the western boundary between the proposed dwellings and the adjacent existing warehouse / light industrial buildings.
- 2.06 Members should note, however, that the current drawings are indicative as the scheme is for outline permission. Only the position of the vehicle access from Power Station Road is set out for definite at this stage, and approval is sought for it.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	3.8 ha		
No. of Residential Units	0	142	+142
No. of Affordable Units	0		
No. of parking spaces	0	225	+225

4.0 PLANNING CONSTRAINTS

- 4.01 The entire site lies within the defined built up area, the boundary of which approximately follows the site edge. Also running along the site boundary is the line of the Important Local Countryside Gap, which encompasses all of the land to the north and east of the site, between Halfway / Minster and Sheerness.
- 4.02 The northern part of the site lies within Flood Zone 3 and a smaller area to the south lies within Flood Zone 2. The FRA includes a map showing these areas.
- 4.03 To the north of the site (minimum 75m) is an area of designated biodiversity habitat.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF)
- 5.02 The NPPF was adopted on 27th March 2012 and is a material consideration in determining planning applications. It offers general advice in respect to proposed development, rather than the more detailed and often site-specific guidance of the Local Plan (discussed below).
- 5.03 Local Plan policies must be assessed against the advice of the NPPF, and those with a “limited degree” of conflict can be considered to comply and thus remain a material consideration in the determination of planning applications.
- 5.02 Paragraph 46 of the NPPF requires Local Planning Authorities (LPA) to have an up-to-date five year housing supply, i.e. sufficient housing to cover demand for the next five years. Swale does not have a five-year housing supply, and thus policy H2 (noted below) is not considered to comply with the provisions of the NPPF in as much as it aims to prevent residential development outside of the built up area other than in specific circumstances.
- 5.03 However that does not have a huge bearing on the determination of applications for housing development within the built up area, such as the current application, as development within the defined built up area boundary is acceptable in principle subject to the considerations of other policies (that do comply with the NPPF).

- 5.04 Paragraph 51 states that LPAs should “*normally approve planning applications for change to residential use...from commercial buildings (currently in B use classes) where there is an identified need for additional housing in that area.*” This is further explored below, but the lack of a five-year housing supply within the Borough is a clear indication to my mind that there is a housing need.
- 5.05 Furthermore: one of the key guiding principles throughout the NPPF is that of achieving sustainable development, noted at paragraphs 6 to 10, 14, 15 and 52, amongst others. One of the ways it encourages this to be achieved is through the use of previously-developed land (para. 111), such as the current application site.

National Planning Practice Guidance (NPPG)

- 5.06 The NPPG also provides general guidance in relation to development. It encourages the provision of housing within sustainable areas, subject to consideration of issues such as local and residential amenity, highways, contamination, noise, urban design / architecture, and ecology, amongst others.

Swale Borough Local Plan 2008

- 5.07 The Local Plan policies listed below are considered to be in compliance with the NPPF, except for H2 in as much as the Council does not have a five-year housing supply.
- 5.08 Policy E1 seeks to ensure that all development proposals respond to the characteristics of the site’s location, protect and enhance the natural and built environments, and cause no demonstrable harm to residential amenity, amongst others. Further to this policy E19 seeks to achieve high quality design on all new developments, while T3 and T4 require the provision of appropriate number of parking spaces and secure cycle storage, respectively.
- 5.09 Policy H2 supports the provision of new residential development within the defined built up area boundaries and encourages providing a variety of house types and sizes to make efficient use of land, and deliver a range of housing options.
- 5.10 Policy E11 seeks to protect biodiversity and ecology within the Borough.
- 5.11 Policy U1 seeks to ensure that all new developments are provided with the necessary service and utility connections, or that suitable financial contributions are paid towards their provision.
- 5.12 Policy U3 aims to ensure that all new development makes use of sustainable design, build and construction techniques in the interests of minimising and accounting for climate change.

The emerging Local Plan; “Bearing Fruits 2031”

- 5.13 Policy A9 of Bearing Fruits includes part of the site as a housing allocation within a list of 15 other similar allocations across the Borough. It specifically identifies 2.5ha to the south of the current application site – not including the land on which the former factory building stood – for development of up to 87 dwellings (allocation ref. SW/169).
- 5.14 The allocation for 87 units arises from the fact that when the site was put forward by the (then) owner under the Council’s Strategic Housing Land Allocation Assessment (SHLAA) call for sites the land was occupied by a number of buildings which constrained the area available for development. The inclusion of the remainder (northern part) of the site and demolition of the existing buildings has opened the site up to numbers over and above the allocated 87. Furthermore the additional dwellings can be considered a windfall contribution to the Council’s 5 year housing supply.
- 5.15 Policy A9 also requires residential development of the site to include on-site pitch provision for gypsy and travellers. However, as discussed at paragraphs 9.23 to 9.32 below, the financial viability of the site is such that there is unfortunately no potential for such an inclusion. Whilst regrettable I do not believe that this would give sufficient justification for a reason for refusal.

6.0 LOCAL REPRESENTATIONS

- 6.01 Minster Parish Council raise no objection, but commented that “*it would like to see solutions provided to address the (i) impact on traffic congestion locally and (ii) the lack of infrastructure at the next more detailed stage of the planning process. The Parish Council feels that the 7% increase in traffic flow predicted is wholly unacceptable and has serious concerns about the detrimental effect on public amenities.*”
- 6.02 Members may wish to note that the site does not sit within Minster Parish, however.
- 6.03 An objection has been received on behalf of Gordon Henderson MP, commenting:

“Whilst Mr Henderson MP defers to the Localism role of Borough councillors to determine planning applications he wishes members to consider his following objections to this application given the wider impact on the community.

1. *This site is currently allocated for employment use in the Adopted Local Plan 2008 and currently there is a greater need for jobs on Sheppey than there is for more housing given the approvals already made.*
2. *A decision to allocate this site for residential use in advance of the emerging LDF "Draft Submission", its subsequent "Inquiry in Public" and future Adoption by the Sec of State DCLG, possibly in 2016, is premature and would pre-judge such land use allocation.*
3. *The surrounding road infrastructure within Halfway and Sheerness are inadequate to take further imposition of increased traffic in this location.*

4. *The local services and amenities are also inadequate to absorb this extra development on top of those already approved.*
5. *Whilst part of the site may be deemed to be in a Flood Zone 2 alert area the submitted FRA clearly identifies the north east of the site to be at 1.8m AOD which would firmly place it in a Flood Zone 3* zone where EA would normally place a 'holding objection' due to its flood warning status and 'risk to life'.*
6. *The development proposes 137 dwellings of mixed 2 to 4 bedroom dwellings on 3.9Ha implying a density near 40 per Ha considerably greater than surrounding developments. Car spaces are only provided at ratio of 1.5 spaces per dwelling which will be totally inadequate to meet the needs of residents, their families and visitors adding to the congestion in roads. For all the above material planning objection reasons Mr Henderson MP would seek refusal to this Outline Planning Application."*

6.04 Whilst the issues raised in representations are discussed in detail below I would draw to Member's attention that the site is **not** allocated for employment use by the adopted Local Plan, and lies within the built up area, where residential development is acceptable in principle.

6.05 32 letters of objection have been received (not all from residents immediately neighbouring the application site). These raise concerns on the following summarised grounds:

- The applicant's public exhibition was inadequate;
- Unable to see the application and supporting documents online;
- The online comments system times out after several minutes, so people can't complete their responses;
- Consultation letters not sent to enough local residents;
- Insufficient parking provision within the development;
- Traffic problems arising from the number of vehicles entering / leaving the site at peak hours;
- There should be a roundabout at the junction of Power Station Road and Halfway Road;
- The Sainsburys application was refused on traffic grounds [Members will note that this was not the case: see paragraphs 1.09 to 1.13 above]; will this development provide highway improvements?
- Drainage and sewerage systems are inadequate;
- Site is prone to flooding;
- The site may be contaminated;
- Proposed external materials not appropriate;
- Site should be used for a cinema / sports complex / community facility;
- *"Sites such as this need to be prioritised as potential employment space;"*
- Such development will turn the Island into a dormitory community for London;
- *"With so little employment on the Island, it is unlikely to be housing existing residents;"*
- Lack of infrastructure on the Island, including education, health, transport, police presence, leisure and communications;

- Lack of primary and secondary school places;
- The island is more overpopulated than the UK average, so more houses are needed, but there is not enough infrastructure or employment to provide for an increasing population;
- Planners ignore local concerns because they don't live on the Island;
- Overlooking of existing properties from the new development; and
- *"Nearly 800 people have signed an online petition;"* [NB: after clarifying with the respondent it is noted that this petition refers to no more house building on the Island in general, and is not specific to this application. Officers have also examined a Facebook petition (run by the same group) but this too is not specific to the current application.]

7.0 CONSULTATIONS

7.01 Kent County Council Regeneration Projects team have assessed the scheme and request a total of £544,279.10 in contributions towards local services, broken down as follows:

- Primary education: £515,000
- Community learning: £5169.21
- Libraries: £15,754.26
- Social care: £8355.63

This equates to roughly £4000 per dwelling.

7.02 On top of these figures will be the Council's standard charge for wheelie bins, and a 5% monitoring fee. This is discussed in detail below.

7.03 The Environment Agency has no objection subject to conditions regarding drainage details and development in accordance with the submitted Flood Risk Assessment.

7.04 Kent County Council Biodiversity Officer has no objection subject to:

- submission of a Habitat Suitability Index (HSI) survey in respect of Great Crested Newts (GCN), and potentially further conditions subject to the results of the HSI;
- A condition requiring a reptile habitat management plan;
- A condition preventing clearance of buildings or foliage during bird nesting season unless otherwise agreed with a competent and qualified ecologist; and
- Minimal external lighting being erected around the periphery of the site to prevent disturbance to commuting or foraging bats.

I have requested the HSI from the applicant, and will update Members at the meeting.

- 7.05 Kent Highway Services initially requested additional information to offset predicted residential traffic movements against those generated by the previous industrial use of the site. Following receipt of further information from the applicant's highways consultant, KHS comment:

“While there would be a change in nature to the flows, with residential use weighted towards departures during the AM peak as opposed to arrivals, and vice versa during the PM peak, the net additional traffic of only 7 extra vehicles approaching the Halfway signalised junction from the site during the AM peak hour would be offset by a reduction of 76 coming the opposite way. Similarly, although an additional 14 would be expected to travel north through this junction during the PM peak, there would be a reduction of 64 in the opposite direction.

It is clear from the above that potential impact of the development is not material, and is likely to have a lesser impact on the highway network than the current lawful use of the site. It would not be appropriate therefore to raise objection to the proposal based on the capacity of the highway network to absorb the traffic generated by the development.”

- 7.06 KHS thus raise no objection subject to standard conditions, as noted below, and a further condition requiring provision of a pedestrian footway along a section of the northern side of Power Station Road, linking the proposed site with the existing footway to the west – a distance of approximately 85m.
- 7.07 Southern Water has no objection subject to the standard informative and drainage conditions noted below.
- 7.08 The Lower Medway Internal Drainage Board has no objection, but notes that the site borders the adopted Scrapsgate Drain and therefore requests an informative to notify the applicant of local byelaws. They also recommend the conditions noted below in respect of SUDS and site drainage details.
- 7.09 The Head of Service delivery has reviewed the submitted contamination study, and has no objection subject to the standard conditions noted below in respect of working hours, dust suppression, and carrying out works in accordance with the contamination study unless further contamination is found on site during construction.
- 7.10 The Council's engineers have no objection, but recommend that double yellow lines be installed on the access junction to prevent parked vehicles blocking access or obstructing sight lines.
- 7.11 The Council's Climate Change Officer has no objection at this stage subject to a condition requiring the proposed houses to achieve Code for Sustainable Homes Level 3. She does, however, express disappointment that no provision for renewable energy has been made within the proposal.

7.12 The Council's Greenspaces officer has requested a total of £39,503 from any S106 contributions secured as part of the development to be put towards maintenance of amenity grass, rough grass and trees, shrub planting within the site, and provision of paths and bins.

8.0 BACKGROUND PAPERS AND PLANS

8.01 The application is accompanied by site location plans, block plans, an indicative layout drawing, and supporting documentation including:

- Design & Access Statement;
- Supporting Cover Statement;
- Statement of Community Involvement;
- Sustainability & Energy Assessment;
- Extended Phase 1 Habitat Survey;
- Transport Assessment & Travel Plan;
- Flood Risk Assessment;
- Landscape And Visual Impact Assessment; and
- Geo-environmental Ground Investigation (contamination survey).

8.02 As the application is for outline permission, with only details of access provided at this stage, no elevations of the proposed buildings have been submitted at this stage. Their scale and design, along with other outstanding matters, will be considered under further reserved matters applications if outline permission is granted.

8.03 The application is also accompanied by a financial viability statement. The document is commercially sensitive and thus confidential – it is discussed in general terms below.

9.0 APPRAISAL

Principle of Development

9.01 The application site lies within the defined built up area and, as such, the principle of development is acceptable in accordance with local and national policies regarding sustainable development and provision of new housing.

9.02 Contrary to the comments of the local MP, as noted at 6.04 above, the site is not allocated for employment use in either the adopted or the emerging Local Plans. The site is unallocated and there is therefore no in-principle objection to residential use of the site, subject to normal amenity considerations as discussed in the following paragraphs.

9.03 As noted at section 5 above the Council currently cannot demonstrate that it has a five-year supply of available housing. Furthermore (and as discussed above at paragraph 5.13), part of the site is allocated for housing in the emerging Local Plan, "Bearing Fruits 2031," and substantial weight can be afforded to this allocation. The Council is therefore under immediate pressure to provide new housing in sustainable and deliverable locations, and this site is

considered to be a preferred option in terms of policy. I would therefore argue that this site, which comprises previously-developed land within the identified built up area boundary and close to both Minster and Sheerness (and with good public transport connections to them), is a wholly sustainable location for residential development and therefore acceptable in principle for use for housing.

- 9.04 The site does lie partly within Flood Zone 3 but, as above, the Environment Agency has no objection subject to the development being carried out in accordance with the submitted Flood Risk Assessment, which is addressed by condition below. I therefore consider there is no reason to refuse planning permission in principle or on flood risk grounds.

Visual Impact

- 9.05 The site was recently cleared and all buildings demolished but, as Members will be aware, the derelict engineering works was considered by many to be blight on the local landscape for a number of years.
- 9.06 Members should be reminded that the current application does not seek to address matters of design, and this will be carefully considered at a later date under further reserved matters applications. It is therefore very difficult to provide Members with any definitive guidance as to the appearance of the proposed estate at this point in time, as no building designs have yet been put forward.
- 9.07 The submitted Design & Access Statement does, however, make reference to design principles set out within the adopted Kent Design Guide and suggests that the proposed dwellings would make use of common local materials such as tile hanging, timber boarding and render. Careful appraisal of the building designs (possibly including an appraisal by the Design Panel operated by Design South East) at reserved matters stage, as well as use of materials conditions to ensure finishing materials are of a high standard will ensure the structures have a high quality appearance and sit comfortably in the surrounding landscape.
- 9.08 The proposed indicative layout, which shows 142 dwellings spread comfortably across the site with room retained for soft landscaping and public open space. Given the site area of 3.9 hectares this equates to a density of 36 dwellings per hectare, which is broadly in line with current guidance. A robust planting and landscaping scheme will help to soften the visual impact of the development, particularly in views from the countryside to the north and the existing dwellings to the south. The indicative position of the houses fronting Power Station Road also leaves room for planting and landscaping and, in any case is not for agreement here.

Residential Amenity

- 9.09 The southern application site boundary sits a minimum of 21m from the garden boundaries of existing dwellings on William Rigby Drive and Buddle Drive. The proposed houses, as shown on the indicative layout, will be positioned in from the boundaries of the site to allow room for boundary landscaping. This distance is sufficient in my opinion to ensure that development of the site would not give rise to any serious overlooking, overshadowing or loss of privacy for existing residents.
- 9.10 The indicative layout shows that 142 dwellings could be accommodated on the application site with sufficient space for rear gardens and public open space to be provided. I am therefore of the opinion that a good level of residential amenity can be achieved for future residents of the site.

Highways

- 9.11 Several objections from local residents refer to highways issues likely to arise from the proposed development, with particular reference to the potential impact on the junction of Power Station Road and Halfway Road.
- 9.12 The applicant has submitted a robust transport assessment which has been examined by Kent Highway Services. Their comments are reproduced at 7.04 above and it is clear that there is no justifiable reason to refuse this application on highways grounds as it results in a net reduction in overall vehicle movements over the existing lawful use of the site.
- 9.13 I appreciate that this is a contentious issue and it may be difficult for local residents to accept KHS's findings that there will be a net reduction in traffic flows as a result of this development, but one has to remember that the authorised use of the site is for Class B2 industrial and that predicted residential traffic flows therefore must be weighed against traffic levels should the lawful use recommence.
- 9.14 It should also be noted that the nature of traffic will change and the removal of a large number of HGVs from Power Station Road and the local highway network generally will be, in my opinion, a benefit to local residents in terms of noise and disturbance.
- 9.15 I would also note that, contrary to comments from local residents (as noted at 6.05 above) the previous application for development of a Sainsburys store on the site was not refused on highway grounds. The highways impact of that proposal was considered to be acceptable; the scheme was refused because of the anticipated retail impact of the development when considered together with that of the Neats Court development upon the vitality and viability of Sheerness town centre.

- 9.16 The amended indicative layout (received 28 October 2014) shows an increase from 137 dwellings to a maximum of 142. I await KHS's further comments in respect to this slight increase and will update Members at the meeting, but do not anticipate any serious issues.
- 9.17 The applicant has confirmed that the footway requested by KHS (which would extend across the site frontage westwards to a pedestrian crossing point, also to be provided as part of this development, linking the northern site of the road with the southern side) can be provided, and an amended drawing has been received in this regard. I await KHS's further comments and will update Members at the meeting.

Landscaping / Sustainable Urban Drainage

- 9.18 As noted above the indicative layout leaves sufficient space for inclusion of 10% public open space and a robust landscaping scheme. I have recommended standard conditions to ensure that a landscaping scheme is submitted, carried out, subsequently maintained, and encourages biodiversity within the development.
- 9.19 The indicative layout shows a pond in the north-eastern corner of the site, adjacent to the boundary. This will form part of the Sustainable Urban Drainage System (SUDS) for the site and also provide an area of potential biodiversity enhancement / additional habitat land. Details will be controlled using condition (8) as set out below. I consider this to be a positive element of the scheme, particularly when weighed against the current condition of the site, being as it is almost entirely covered by concrete hardstanding.
- 9.20 Officers have made it clear to the applicant that the current layout, whilst acceptable for the purposes of an outline application, may require some significant amendment at the reserved matters stage. This is because whilst it shows adequate space for all of the necessary landscaping and amenities, the public open space could be better organised to provide a more central and useful area. This has no bearing on my recommendation, but I consider it necessary to have put a marker down at this stage for the benefit of future discussions.

Ecology

- 9.21 The application includes an Extended Phase 1 Habitat Survey, the conclusion of which is that the site is of low ecological value due to the large area of concrete hard standing and limited vegetation / tree cover. A single grass snake was found on the site, and land to the north (outside of the application site boundary) was concluded to have "suboptimal potential" as habitat for Great Crested Newts (GCN). No bats or water voles were recorded on the site.

9.22 The Survey was reviewed by the Kent County Council Biodiversity Officer, who initially requested that further information was provided on a number of points. The applicant submitted further information and KCC now have no objection subject to a number of conditions (as listed below) with respect to:

- Carrying out a Habitat Suitability Index survey and Great Crested Newt survey at the appropriate time of year;
- Submission of a reptile mitigation strategy, and provision of an off-site receptor site if necessary;
- A water vole survey;
- Removal of vegetation outside of bird nesting season or after a site assessment by a competent ecologist; and
- Submission of lighting details to avoid disturbance to commuting or foraging bats.

Affordable housing, viability and S106

9.23 The application is accompanied by a comprehensive viability assessment (VA) that, for business confidentiality reasons, can't be reproduced here in its entirety. It has however been independently scrutinised by CBRE, the Council's financial advisors in such matters, who agree with the conclusions of the report and as such I do not believe the Council has any reasonable or justifiable basis to challenge its conclusions.

9.24 Kent County Council has requested financial contributions of £544,279.10 (roughly £4000 per dwelling), and the Council's standard requirement for affordable housing is 30% of the total number of dwellings: in this instance equating to 43 units. The Council's Housing team would normally expect these to be provided at a mix of 70% affordable rent and 30% shared ownership.

9.25 The VA makes it clear that such contributions and affordable housing provision would make the scheme entirely unviable. Requiring the requested / policy-compliant figures as part of a S106 would prevent the development coming forward (depriving the local community of the various benefits that would stem from it) and I do not believe we should be pushing the applicant to alter the scheme in this regard.

9.26 CBRE's appraisal of the VA comments:

"The CBRE indicative appraisal shows that a policy compliant scheme, with 30% affordable housing, generates a profit level [that] falls short of the level [typically 20%] required by a private developer to proceed with a speculative residential scheme.

Based on the sensitivity analysis undertaken even at 0% affordable housing the scheme does not deliver a profit level commensurate with market requirements."

- 9.27 The applicant is, however, acutely aware of the local need for affordable housing and funding for KCC to provide social services – in particular new local schools. With this in mind they have offered to provide some affordable housing and a commuted sum that falls within the viability scope of the development, but does not meet with what KCC or SBC Housing would expect / have requested. Their offer includes either:
- a) A commuted sum of £2000 per dwelling + 7 two-bed flats (4 affordable rent and 3 shared ownership) + 2 two-bed houses (both shared ownership); or
 - b) A commuted sum of £2000 per dwelling + 11 two-bed flats (4 affordable rent and 7 shared ownership).

The indicative scheme includes a block of flats on the western side and it is envisaged that, under option B, the whole block could be managed by a social housing provider. From discussions with the Council's Housing Team I understand that this is the preferred option in terms of workability.

- 9.28 CBRE's assessment of the VA makes it clear that both options eat into the projected profit margins, which are already below what would normally be expected for a developer to take on a site. I consider the proposals to be generous in the circumstances, particularly when it can be demonstrated that nil provision and nil commuted sum would be justified in this instance.
- 9.29 Either of the above options would contribute towards the Council's affordable housing need provision, and can be considered a windfall as part of the wider windfall housing gain from residential development of this site (which contributes significantly towards the Council's 5 year supply quota). I have, however, asked the Council's Housing Team to comment on their preferred option and will advise Members further at the meeting.
- 9.30 It must be noted however that the £2000 per dwelling commuted sum incorporates all payments normally expected as part of a large development, including KCC's requested sum (amounting to approx. £4000 per dwelling) and SBC's required contribution towards provision of wheelie bins, maintenance of public open space within the development, and a S106 monitoring fee.
- 9.31 I await further comments from my colleagues in the relevant departments as to the precise figures involved (and will update Members at the meeting), but I suggest that the sums required by SBC be secured before the remainder of the contributions are passed on to KCC. Without securing funds for wheelie bins and maintenance of public open space the development would be poorly served and would result in a poor standard of amenity for residents and surrounding neighbours.
- 9.32 I therefore request that Members delegate authority to officers to secure SBC's required contributions, as a matter of priority, through S106 negotiations.

Foul and surface water drainage

- 9.33 As noted at 9.19 above the indicative site layout includes space for the provision of a Sustainable Urban Drainage System (SUDS) by way of a pond situated close to the north-eastern site boundary. This will help to attenuate surface water run-off into the adopted Scrapsgate drain which sits to the north of the site – condition (8) below requires run-off into the drain to be no more than 7 litres/sec/ha, in accordance with the LMIDB’s advice.
- 9.34 Southern Water are able to provide foul drainage for the development, and have no objections to the application subject to the informative, noted below, advising the developer that they will need to enter into a formal agreement with Southern Water.

10.0 CONCLUSION

- 10.01 The application site represents a windfall housing site within the defined built up area and close to shops and services within both Minster and Sheerness, and also at the Neatscourt development. Development of the land for residential purposes is therefore acceptable as a matter of principle.
- 10.02 I believe that the site can comfortably accommodate up to 142 dwellings, as proposed (equating to a density of 36 dwellings per hectare), as well as all necessary and required amenities, facilities and services. I also consider that residential use of the site, if broadly in compliance with the submitted indicative layout plan, would be unlikely to give rise to any serious amenity concerns for neighbouring residents to such a degree that would justify a reason for refusal.
- 10.03 The submitted details and consultee responses indicate that development of the site, subject to the conditions noted below, would not seriously prejudice local wildlife.
- 10.04 Taking the above into account, and subject to the further responses of Kent Highway Services and the Council’s Housing team, I recommend that Members resolve to grant outline planning permission and delegate authority to officers to secure financial and affordable contributions through a Section 106 legal agreement.

11.0 RECOMMENDATION – GRANT Subject to further views of Kent Highway Services and Housing Services, and the signing of a suitably-worded S106 agreement, and the following conditions:

CONDITIONS to include

- (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.

Grounds: 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.

Grounds: 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.

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

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

Indicative drawings: location Plan 3684 PL 001 received 16 June 2014, Alternative Site Layout Revision D September 2014 received 3 November 2014; and Planning Application Supporting Statement, Design and Access Statement, Transport Assessment and Travel Plan, Flood Risk Assessment, Sustainability and Energy Assessment, Statement of Community Involvement, Extended Phase 1 Habitat Survey, Landscape and visual Impact Assessment and Geo-environmental Ground Investigation Update Report received 16 June 2014, and Addendum to Planning Statement October 2014 received 3 November 2014.

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

Pursuant to Reserved Matters

(5) Details pursuant to Condition (1) shall incorporate the principles described in the Design Code set out in paragraphs 2.3 to 2.10 of the Addendum to Planning Statement October 2014 received on 3 November 2014, particularly with regard to building heights and sustainable design and construction.

Grounds: to ensure the implementation of the development accords with design principles established at this outline planning stage.

(6) Details pursuant to Condition (1) shall show the external boundary treatments to be used on the boundaries of the site. Development shall be carried out in accordance with those approved details and thereafter retained.

Grounds: In the interests of visual amenity.

(7) Details pursuant to Condition (1) shall demonstrate:

- i. how the proposal will incorporate measures to encourage and promote biodiversity and wildlife on the site; and

- ii. shall incorporate within the soft landscaping on the western boundary of the site habitat for reptiles, including a connecting corridor to the public open space to the north and hibernacula within that public open space.

Development shall be carried out in accordance with those approved details and shall thereafter be retained and maintained in perpetuity.

Grounds: In the interests of promoting wildlife and biodiversity.

(8) The areas shown indicatively on the submitted drawings as open water shall be incorporated into a Sustainable Urban Drainage System (SUDS) pond and shall be reserved for that purpose only. The pond shall form part of a comprehensive Sustainable Urban Drainage System, also incorporating open ditches, for the whole site. Details pursuant to Condition (1) shall include details of how foul and surface water will be drained from the site and how it is to be installed including details of the location of the sewage pipe. Details shall also demonstrate that for the surface water run-off generated by the development during all rain falls will not exceed 7 litres per second per hectare. No permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Grounds: To ensure that these areas are made available, and in the interests of local amenity.

(9) A contaminated land assessment (and associated remediation strategy if relevant) shall be submitted to and approved in writing by the Local Planning Authority, comprising:

- a. A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.
- b. An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- c. A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a remediation strategy which shall be of such a nature as to render harmless any identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

Grounds: To ensure any contaminated land is adequately dealt with.

(10) Details pursuant to Condition (1) shall show the public street-lighting columns within the development, including details of design, placement and light output. The development shall be carried out in accordance with the approved details and thereafter retained unless otherwise agreed in writing by the Local Planning Authority.

Grounds: In the interests of public amenity and safety, and to prevent serious disturbance to commuting or foraging bats.

(11) Details pursuant to Condition (1) shall show adequate land reserved for parking or garaging in accordance with the adopted Kent Parking Standards and, upon approval of the details the parking 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 premises. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to those reserved vehicle parking areas.

Grounds: As development without adequate parking facilities would be likely to prejudice highway safety and amenity.

Pre-Commencement/Pre-construction /Pre Occupation

(12) Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment shall be carried out in full (or in phases agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

Grounds: To ensure any contaminated land is adequately dealt with.

(13) Upon completion of the works identified in the contaminated land assessment, and before any part or agreed phase of the development is occupied, a closure report shall be submitted which shall include details of the remediation works with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

Grounds: To ensure any contaminated land is adequately dealt with.

(14) No development shall take place until a Great Crested Newt survey, Habitat Suitability Index survey, a reptile survey and a water vole survey have been carried out in relation to the site, and all four surveys have been approved in writing by the Local Planning Authority. If Great Crested Newts or reptiles are found to be using the site, or the site is found to have potential to be used as habitat, a strategy detailing measures for their protection from harm during site construction activities, including details of an off-site receptor site (if deemed necessary), shall be submitted to and approved in writing by the Local Planning Authority before development is commenced.

Grounds: To minimise harm to protected species or their habitat, in accordance with the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Species and Habitats Regulations 2010.

(15) No development shall take place until a programme for the suppression of dust during the demolition of existing building foundations and former site access roads and construction of the development has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

Grounds: In the interests of residential amenity.

(16) No development shall take place until details of on-site parking, during the construction phase, for site personnel / operatives / visitors, and construction vehicles loading, offloading or turning areas on the site, has been submitted to and approved by the Local Planning Authority and thereafter such facilities shall be provided prior to the commencement of the development and retained throughout the construction of the development.

Grounds: To ensure the construction of the development hereby approved does not prejudice conditions of highway safety and amenity.

(17) During the construction phase of the development, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway, and in particular wheel-washing facilities shall be installed close to the site access and retained in-situ throughout the construction phase.

Grounds: To ensure the construction of the development hereby approved does not prejudice conditions of highway safety and amenity.

(18) 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.

Grounds: To ensure that the roads are constructed and laid out in an appropriate manner.

(19) Before 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.

Grounds: To ensure that the roads are constructed and laid out in an appropriate manner.

Other Conditions

(20) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Grounds: In the interests of residential amenity.

(21) No development shall be carried out other than in complete accordance with the submitted Flood Risk Assessment, received 17 June 2014.

Grounds: To ensure the development is designed to reduce the risk of flooding.

(22) Removal or clearance of vegetation or buildings (if existing) from the site shall only be carried out outside of bird breeding season (March to August, inclusive) unless the site has first been examined by a competent and qualified ecologist details of the works submitted to and approved in writing by the Local Planning Authority. If any breeding birds are present on the site all works must cease on that part of the site until all the young have fledged.

Grounds: To minimize harm or disturbance to nesting birds, and in accordance with the Wildlife and Countryside Act 1981.

(23) The development shall be carried out to achieve Level 3 of the Code for Sustainable Homes (November 2010) for all housing to be provided, as specified by paragraph 2.10 of the Addendum to Planning Statement received 3 November 2014. A post-construction certificate shall be submitted within six months of practical completion demonstrating the development has been carried out in accordance with this condition.

Grounds: In the interest of promoting energy efficiency and sustainable development, and in accordance with the submitted details.

(24) The Local Planning Authority shall be given notice seven days prior to the commencement of the development hereby approved, and within a period ending 52 weeks from the date of such notice the off-site highway improvement works consisting of the provision of a continuous pedestrian footway between the proposed site access road and the existing length of pedestrian footway on the north side of Power Station Road shall be constructed and made available for use by the general public.

Grounds: Because no such length of pedestrian footway is currently provided and in the interests of the safety and convenience of pedestrians living in or visiting the proposed residential development on the application site.

INFORMATIVE

(1) The applicant / developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel: 0330 3030119) or www.southernwater.co.uk.

The Council's approach to this 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 further information was requested and the application subsequently considered to be acceptable.

Case Officer: Ross McCardle

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.