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<b>2.8 REFERENCE NO - 18/506417/FULL</b>		
<b>APPLICATION PROPOSAL</b> Residential development consisting of 72no. 3 and 4 bedroom dwellings with associated garaging, parking and infrastructure.		
<b>ADDRESS</b> Land At Southsea Avenue, Scarborough Drive, Augustine Road, Sexburga Drive And The Broadway Minster-on-sea Kent ME12 2NF		
<b>RECOMMENDATION</b> Grant subject to conditions and the signing of a suitably worded Section 106 Agreement.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The application site is located within the existing built up area boundary where the principle of development is accepted. The Council is unable to demonstrate a 5 year supply of housing land and as such the proposal would contribute towards addressing this shortfall in a sustainable location. I am of the view that the layout and design has been well considered and any harm to biodiversity is able to be minimised by conditions that have been recommended. I have not identified any unacceptable harm in respect of highway matters and matters such as drainage have been acceptably dealt with.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council Objection; some of the application site is owned by the Council.		
<b>WARD</b> Minster Cliffs	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Malro Homes Ltd <b>AGENT</b> Kent Design Partnership
<b>DECISION DUE DATE</b> 18/03/19		<b>PUBLICITY EXPIRY DATE</b> 18/07/19

**Planning History**

There is no planning history relating to the site in its entirety, however the following application was submitted for an individual plot of land within the site:

16/508687/FULL - Erection of a 4 bedroom detached dwelling with associated parking spaces'. Approved 18/09/2017.

**1. DESCRIPTION OF SITE**

- 1.1 The application site is an irregularly shaped undeveloped parcel of land, covered in unmanaged vegetation within the built up area boundary of Minster-on-Sea. The site measures approximately 2.55 hectares and includes part of the unmade highways of Scarborough Drive, Augustine Road and Sexburga Drive which cross the site in an approximate north-west / south-east direction. Part of the application site also fronts onto Southsea Avenue and The Broadway.

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- 1.2 The site slopes downwards from east to west, sitting approximately 15m AOD at its eastern boundary and 5m AOD on the western boundary. The site is almost entirely bounded by existing dwellings. These dwellings comprise an extremely wide range of styles and designs and have in the most part been developed in a piecemeal fashion.

**2. PROPOSAL**

- 2.1 This application seeks detailed planning permission for the erection of 72 dwellings (39 x 4 bed and 33 x 3 bed units). A number of the dwellings will be laid out along the established alignment of Scarborough Drive, Augustine Road and Sexburga Drive. Two additional link roads are proposed, linking the above mentioned highways within the site, upon which dwellings are proposed to front. A further spur road leading from Scarborough Drive is proposed, again, fronted by dwellings.
- 2.2 The proposed properties will be in the form of a mixture of short terraces, semi detached and detached. The scale of the dwellings is proposed to be a combination of 2 and 2 ½ stories in height. The height of the proposed dwellings to the ridge ranges between 9.1m and 10.2m. The properties are laid out in a slightly staggered arrangement.
- 2.3 The design of the dwellings is contemporary with pitched roofs, projecting elements and materials comprising brick, render and weatherboarding. Larger sections of glazing, including within the apex of some of the roofs are also featured on a number of the dwellings.
- 2.4 Each property will benefit from a minimum of two parking spaces. In the majority of cases this is to be provided on plot, although for 8 of the dwellings (located on the spur road leading from Scarborough Drive) this will be provided in front of the dwellings. The total number of car parking spaces would be 172.
- 2.5 The existing unmade highways within the site are proposed to be 'made up' to adoptable standards. Corridors of existing vegetation are proposed to be retained.

**3. PLANNING CONSTRAINTS**

- 3.1 Environment Agency Flood Zone 2
- 3.2 Environment Agency Flood Zone 3

**4. POLICY AND CONSIDERATIONS**

- 4.1 The National Planning Policy Framework (NPPF): Paras 7, 8, 11 (sustainable development); 34 (developer contributions); 67 (identifying land for homes); 73 (maintaining a supply of housing sites); 102 (transport); 127 (achieving well designed places); 165 (sustainable drainage systems); 170 (local and natural environment); 175 (biodiversity).
- 4.2 National Planning Practice Guidance (NPPG): Air Quality; Design; Determining a planning application; Flood risk and coastal change; Natural Environment; Open space, sports and recreation facilities, public rights of way and local green space; Planning obligations; Use of planning conditions.

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- 4.3 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017:  
ST1 (Delivering sustainable development in Swale); ST3 (The Swale settlement strategy); ST4 (Meeting the Local Plan development targets); ST6 (The Isle of Sheppey area strategy); CP3 (Delivering a wide choice of high quality homes); CP4 (Requiring good design); CP6 (Community facilities and services to meet local needs); DM7 (Vehicle parking); DM14 (General development criteria); DM17 (Open space, sports and recreation provision); DM19 (Sustainable design and construction); DM21 (Water, flooding and drainage); DM28 (Biodiversity and geological conservation); DM29 (Woodlands, trees and hedges).
- 4.4 Supplementary Planning Guidance (SPG): 'Developer Contributions' (November 2009).

**5. LOCAL REPRESENTATIONS**

- 5.1 Letters of objection have been received from 31 separate addresses and they raise the following summarised concerns and observations:
- There is no need for additional housing;
  - The Isle of Sheppey does not have adequate infrastructure – schools, roads, healthcare, recreational facilities - to support the development;
  - The junction of Augustine Road and The Broadway is hazardous and the increase in traffic will be detrimental to highway safety;
  - Have Officer's visited the site to see how dangerous the vehicular exit from Augustine Way is?;
  - The Broadway should be widened further;
  - An access onto Southsea Avenue should be created as the main route out of the development;
  - The density and layout of the development and design of the dwellings is not in keeping with the surrounding area;
  - Bungalows would be more appropriate;
  - The proposed dwellings will give rise to a loss of privacy of existing residents;
  - There is a homeless man who lives within the site who would be unaware of the proposal and may have squatters rights;
  - The area should be made into a nature reserve and brownfield sites used for housing instead;
  - The development will have an unacceptable impact upon wildlife and protected species;
  - The noise created by the building work will be 'horrendous';
  - The proposal will give rise to smells and dust - what restrictions will be in place for this?;
  - The properties will have a detrimental impact upon views from surrounding houses;
  - The proposal will cause an increased risk of flooding to existing properties as the site is within a flood plain;
  - The development will give rise to traffic congestion on roads which are already over capacity;
  - The proposal will cause additional traffic noise;
  - The area has been used by children for recreation;
  - The dwellings will give rise to a loss of outlook;
  - There would be difficulties accessing existing properties due to the increase in traffic;

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- Visitors to the area currently use Augustine Road to park, this will become impossible and they will be forced to park in The Broadway which will cause traffic problems;
- The development has not been properly thought out or surveyed;
- Heavy works vehicles will have an impact upon private streets;
- *“This development will obviously be allowed as Swale council stand to make so much money from it.”*
- Swale Borough Council do not own all of the land and therefore they should not be allowed to build on land they do not own;
- Will the homes be for sale or rent and is there any social housing?
- How is the Council able to give Augustine Road to a developer?;
- There has been no consultation with the residents prior to the consultation letter;
- A 21-day consultation period is unacceptable;
- There are incorrect answers in the application form as vehicular accesses onto The Broadway via Augustine Road and Sexburga Road *[sic]* will be altered;
- Will Sexburga Drive be made up and who will pay for this?;
- All unmade roads should be made up and adopted by the Local Authority and should include highway drainage and street lighting at no cost to existing residents;
- If the roads are not made up before the proposed build takes place then residents will be restricted from using them due to construction activities;
- There is a lack of clarification as to how the road surface will be maintained where the made and unmade roads meet;
- Due to the change in road surface between the made and unmade road, there will be a diversion of surface water into existing properties;
- Existing un-made roads are maintained by existing residents and as a result there is concern that increased usage will give rise to damage to the roads, which existing residents will have to bear;
- Will there be a footpath and street lighting?;
- Object on the grounds of air pollution;
- Due to the removal of planting there will be a considerable increase in the flow of surface water which will cause hazardous driving conditions;
- During periods of heavy rain / snow melt a large quantity of mud and small stones are washed downhill to The Broadway;
- Some of the proposed dwellings do not have enough parking spaces;
- There is a lack of on street parking provided giving rise to overspill on surrounding roads;
- Would like assurances that new planting will not give rise to a loss of light to surrounding properties;
- When previous attempts were made to purchase a parcel of the land the Council considered that it could not be built on as it was a flood plain, there was not enough land to build an extension and that there was ecology that needed to be protected. It would appear that these issues are no longer relevant;
- The increased traffic will make it ‘virtually impossible’ for pedestrians to cross The Broadway to access Bartons Point, the Abbey Motel and Layzells night club;
- What impact will the development have upon the flood risk to surrounding dwellings?;
- There are no recreational facilities in Minster for the additional children / teenagers, a cinema should be built at Neatscourt rather than more food / retail outlets;
- A line of planting is proposed along the existing properties in Southsea Avenue, which should be continued to screen the development;

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- The proposal will give rise to a loss of the layby in Southsea Avenue where vehicles currently park;
- The proposal will cause a loss in property value;
- Scarborough Drive has no existing vehicular access to Southsea Avenue, Sexburga Drive or Augustine Road and therefore the traffic for the proposed properties in this part of the development would be required to use the existing unmade road;
- There are specific conditions in the deeds for this site relating to plot sizes, frontages and types of houses, does this scheme contravene these rules?;
- What assessment has been undertaken to ensure that there is not an increase in crime / antisocial behaviour?;
- Records show that the area was previously used for waste disposal, has there been an investigation of this and would there be an adverse impact on residents from any toxic waste?;
- The reptile survey carried out is inadequate;

5.2 Two letters have been received which neither object to or support that application but make the following points:

- Will Scarborough Drive be made up and who will pay for this?;
- Would like assurances that the developer is made aware for the necessity of adequate drainage so that existing properties will not suffer any damage from excess water and flooding.

## 6. CONSULTATIONS

6.1 **Minster Parish Council** object to the application for the following reasons:

*“The site layout is unsatisfactory with regard to servicing the properties. It does not follow the historic, original proposal, evidence of which is in the road opposite No. 32 Southsea Avenue. The Parish Council believes there should be an access from Southsea Avenue and provision of turning points at the end of the cul-de-sacs. The north west portion of the estate needs two madeup accesses,- one at Southsea Avenue and one other. The Parish Council queries the validity of the ecological study as it was undertaken outside the site although it understands that further studies are planned. The Parish Council wants this [the completion of an ecological study on the site] to be a mandatory condition if permission is granted to protect the ecological value of the site. Furthermore, if in the event of permission being granted, as there is no provision for public open space within the site, the Parish Council would like some of the Section 106 funding associated with the development to be spent on enhancing The Glen Village Green as this will be accessible to the estate's residents.”*

A further response was received from the Parish Council where concerns were raised regarding the ecological survey submitted with the application and a request that a full survey is undertaken. Attention is also drawn towards the occupant of the site and the Council is asked to ensure that arrangements are made to help safeguard this individual.

6.2 **Swale CCG (NHS)** have requested a contribution of £62,208 to be directed to the Shiva Medical Centre, Broadway.

6.3 **Natural England** comment that this proposal may give rise to increased recreational disturbance to the coastal Special Protection Area and Ramsar site. However, subject to the appropriate financial contribution being secured, Natural England is satisfied that

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the proposal will mitigate against the potential recreational impacts of the development on the site. However, due to the *People Over Wind* ruling by the Court of Justice of the European Union, Natural England advise that the measures to avoid or reduce the likely harmful effects from the development may need to be formally checked and confirmed via an Appropriate Assessment. It is for the Council to decide whether an Appropriate Assessment is required and Natural England must be consulted.

An Appropriate Assessment has been carried out and I have re-consulted with Natural England on this basis. They have confirmed that subject to securing the appropriate mitigation (i.e. payment of the financial contribution) that they raise no objection to the proposal.

- 6.4 **Environment Agency** have set out that the proposed development will only be compliant with the NPPF if a condition is imposed which requires the finished floor level for all living accommodation set at a minimum of 4.9m AOD and the finished floor level for all sleeping accommodation set at a minimum of 5.2m AOD.
- 6.5 **Kent Police** comment that there are a number of issues to be addressed including boundary treatments, overlooking of pedestrian routes and compliance of doors and windows with Product Assessment Specifications. A condition or informative is requested.
- 6.6 **KCC Ecology** initially responded setting out that further surveys along with any necessary mitigation for reptiles, breeding birds and bats was required. In the first instance a reptile survey was undertaken and on this basis I re-consulted with KCC Ecology. No reptiles were recorded as being present and as a result no mitigation measures for reptiles is recommended. KCC Ecology agree with this conclusion, however, given the extent of vegetation on the site and other wildlife which is likely to be present, a biodiversity method statement should be secured by condition if planning permission is granted. KCC Ecology also referred to the matters highlighted in their initial response which required addressing.

A Bat Activity Survey was undertaken and on this basis I re-consulted with KCC Ecology. KCC commented that they required further information in respect of a list of bat passes recorded during the initial survey and bat passes recorded at each spot check. In addition, the retention of 'edge habitats' in the site is recommended. Furthermore, as the site has some of the only semi natural scrub/wooded habitat in the area, KCC advise that the value of the site for bats (and other wildlife) has been underestimated and the proposed mitigation in order to 'prevent/minimise impact on the local bat population' is not agreed with.

It is also considered that the submitted layout makes no provision for biodiversity, beyond the planting of the trees shown. KCC advise that the removal of the current vegetation will present a significant loss of biodiversity in the area which is contrary to policy ST1 of the Swale Borough Local Plan. Where ecological impacts can not be avoided this needs to be acknowledged and compensatory measures may be required to enable a conclusion to be drawn that the development is acceptable on ecological grounds. However, KCC were of the view that at this point the implementation of measures recommended in the Bat Activity Survey will provide adequate mitigation for impacts to foraging and commuting bats.

Finally, in respect of breeding birds, whilst the significant loss of nesting opportunities

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could be offset to some degree by the provision of nest boxes, the reduction in the availability of foraging habitat must be taken into account if compensatory provision is not provided.

Due to the above comments further bat survey data, a revised layout, landscaping plan and lighting plan was submitted to KCC Ecology for further comment. They have commented that *“Further information has been provided to support the summary of results reported in the Bat Activity Survey. The Known Bat Roost Locations map indicates the presence of a maternity roost nearby and it is highly likely that the site currently provides foraging habitat for bats associated with this roost.*

*It is therefore good to see that on the Preliminary Landscape Proposals that the landscaping has been amended with an increase in areas of retained habitat, for which additional planting is proposed. This retained habitat is well-situated in likely dark areas between gardens which will help to ensure its continued suitability for foraging bats. The retention of this habitat will also provide opportunities for nesting birds.*

*If Swale BC is to secure the detailed landscaping proposals by condition, we advise that the details of the proposed ecological features (as shown on the Preliminary Landscape Proposals) are sought in a Ecological Design Strategy, to ensure that specific requirements are appropriately demonstrated.”* A condition is recommended.

Further to this, *“While minimal management of the areas of retained habitat will be necessary in the long term, with the proposed ecological features, the use of whips to enhance the habitat and the need to differentiate between gardens and retained habitat areas, we advise that the submission and implementation of a detailed Landscape and Ecological Management Plan must be secured by condition, if planning permission is granted.*

*As previously advised in our note dated 28th June 2019, we advise that submission and implementation of a biodiversity method statement is secured by condition, if planning permission is granted.*

*The applicant has provided lighting proposal information and we advise that confirmation is sought regarding the extent to which these are in accordance with Guidance Note 8 Bats and Artificial Lighting (Bat Conservation Trust and Institute of Lighting Professionals). Alternatively, the details could be secured by condition, if planning permission is granted.*

*We advise that the inclusion of the proposed ecological features will ensure that there are opportunities for wildlife within the proposed development but in our view if a biodiversity metric was applied, a net loss of biodiversity would be apparent. While the use of such a metric is not yet a planning requirement, the applicant could choose to submit such information and take steps to ensure that the proposal demonstrates a net gain in biodiversity in accordance with the Local Plan, or off-site ecological enhancements (or contributions to ecological enhancements) could be sought to compensate for the on-site loss.*

*We note that the applicant has stated a commitment to contribute to the North Kent SAMMS and advise Swale BC that there will be a need for an appropriate assessment to be carried out.”*

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**6.7 KCC Highways & Transportation** initially responded as follows:

*"It is appreciated that many of the proposed houses will have direct frontage onto the existing unmade roads, and would follow the general pattern of development along these public rights of way. The highway layout and building arrangement in those instances would therefore be consistent with the historic expectation of how development was originally anticipated to proceed when Southsea Avenue, Scarborough Drive, Augustine Road and Sexburga Drive were laid out. The scale of development being proposed is sufficiently large enough and comprehensive to warrant the sections of unmade road that currently exist on the proposed housing frontages being made up of for adoption by the Highway Authority. These will require uninterrupted adoptable connection to the existing adopted highway. Whilst it has been proposed to make up the road connections of Augustine Road and Sexburga Drive to join the adopted public highway at The Broadway, it is noted that vehicular traffic associated with the Scarborough Drive development proposals would still need to gain access via unmade roads. This is not acceptable, and an adoptable vehicular route will therefore need to be provided for the Scarborough Drive element too.*

*Remaining with the Scarborough Drive proposals, the 2 new roads branching perpendicular from the existing alignment will require turning facilities to enable these lengths to meet adoptable standards. In addition, under the current proposals, the radii of the junction of the unmade section of Scarborough Drive with these 2 roads is too tight to accommodate the making up of that length of road in the future, unless the land required to cater for an adoptable junction is protected and doesn't form the private curtilage of plots 18 and 19.*

*Related to the above, vehicle tracking should also be provided to demonstrate that vehicles can manoeuvre appropriately within the development. An 11.4m size refuge vehicle should be able to proceed through the roads.*

*At plots 4, 7, 8, 10, 11, 20, 25, 32, 40, 41, 45, 47, 49, 50, 60, 65 and 69, the driveway length in front of the garage should be extended to 10.5m in order to avoid a tandem parked vehicle overhanging the footway. Similarly, a 10m length will be required for plots 25, 38 and 68 where 2 vehicles are likely to park in the space where garages aren't located beyond. Where only a single parking space is provided in front of the garages at plots 2, 62, 67, a 5.5m will be required.*

*The parking for plots 1, 61, 65, 66 and 67 does not comply with the adopted IGN3 parking standards, as the 2 spaces should not include garage provision. Furthermore, all spaces should be independently accessible, but plots 63 to 67 are solely tandem arrangements that are expected to result in additional on-street parking demand.*

*No visibility sightlines have been indicated where Augustine Road and Sexburga Drive are to be made up and form adopted junctions onto The Broadway. Sightlines appropriate for the 40mph speed limit applied to The Broadway should be shown. Nonetheless, it is anticipated that these are not achievable at the junction of Augustine Road under the current proposed layout, and the scheme will need to address this issue.*

*At the junction of Sexburga Drive with The Broadway, the proposed site plan drawing 16.1610A stops the footway short, so does not link to the existing footway outside Meadowbank. Whilst it is complete on other drawings within the submission, it should be consistent across them all to avoid any ambiguity."*



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On the receipt of amended drawing I re-consulted with KCC Highways & Transportation who commented as follows:

*“Further to my previous response on this application, I note that the Scarborough Drive element of the development proposals would now be connected directly to the existing adopted public highway via a new adoptable vehicular route to Augustine Road. This has addressed the concern that I had raised with regard to that aspect of the original proposals, and has also removed the need to provide turning facilities within the former cul-de-sac arrangement, as this now links all the way through.*

*Whilst the kerb radii on the junction between the new road construction of Scarborough Drive and the section that is to remain unmade to the south has been increased, it is still not clear whether this is sufficient to allow the future making up of the southern length to The Broadway. It must be ensured that the appropriate extent of land is kept available to accommodate a standard junction and associated footways, without requiring third party land that may be transferred to purchasers of plots 18 and 19 as part of the initial house sales.*

*As previously requested, swept path analysis of the proposed roads is still awaited to demonstrate that an 11.4m refuse freighter can manoeuvre through the development.*

*Following discussions with my colleagues in the Agreements Team regarding the making up of the existing and proposed new roads within the development, they have confirmed that no realignment of the junction of Augustine Road and The Broadway will be required. Whilst this had been suggested during a meeting held earlier between officers from K County Council, Swale Borough Council and the planning agent, it is no longer considered necessary due to the existing highway rights enjoyed over the unmade junction. Consequently, the basic making up of Augustine Road shown on the originally submitted plans will suffice.*

*In respect to the making up of the unmade roads, it is noted that the earlier drawings were coloured to distinguish the proposed works from those remaining unaffected. I would request that a similar drawing is provided to reflect the new layout.*

*As before, at plots 4, 7, 8, 10, 11, 20, 32, 40, 41, 47, 60, 65 and 69, the driveway length in front of the garage should be extended to 10.5m in order to avoid a tandem parked vehicle overhanging the footway. Similarly, a 10m length will be required for plots 38 and 68 where 2 vehicles are likely to park in tandem.*

*The parking for plots 1 and 61 still does not comply with the adopted IGN3 parking standards, as 2 spaces should be provided, not including garage provision.*

*Finally, on close inspection of the drawings, it appears that the proposed plot curtilages may along the existing unmade roads are extending over the current defined highway limits. The limits generally follow the alignment of the existing properties front boundary walls, except where encroachment may have taken place historically. The individual plots may therefore need to be set back further from the proposed back of footways.”*

Due to the receipt of further amended drawings I have re-consulted with KCC Highways & Transportation who have commented as follows:

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*"I refer to the amended drawings published on 20th August and 5th September 2019 in respect to the above planning application.*

*The swept path analysis has now been provided to demonstrate the suitability of the proposed highway layout to accommodate the movement of an 11.4m refuse vehicle through the development, and I am satisfied that this is appropriate.*

*As requested in my previous response, the length of the vehicle hardstandings for the identified plots have been lengthened in order to ensure that where two cars were likely to attempt to park in tandem, it can now be done without overhanging onto the footway. It should be noted that this has increased the formal amount of parking provided for these plots, exceeding the minimum level of parking required.*

*The drawings now confirm the extent of the unmade roads to be brought up to adoption standards, and this shows that the adoptable roads will link directly onto The Broadway with upgraded junctions for Augustine Road and Sexburga Drive. Whilst I note that sightlines of 90m have been indicated for simplicity, the most recent speed surveys indicate that the 85<sup>th</sup> percentile speed measured was 38 mph, which would equate to the provision of a 58m sightline in this instance. This would be wholly achievable within the highway boundary for Sexburga Drive, although does slightly cross third party land in the case of Augustine Road. However, it is appreciated that these are existing junctions with highway rights of access for the public to use them, and the form of the junction at Augustine Road would have remained the same, even if the Highway Authority were to have "made up" these unmade roads using it's own funds or through apportionment of the frontagers."*

As a result, no objection is raised subject to conditions requiring the highway works being carried out in accordance with a design and specification submitted to the LPA; a construction management plan; the parking spaces to be provided and retained; provision for cycle parking; pedestrian visibility splays; details of estate roads, verges, junctions, lighting etc.; works between the dwellings and the adopted highway to be carried out prior to occupation.

**6.8 Lead Local Flood Authority (KCC) – Initially commented that as follows:**

*"1) While we agree with the principles set out within the flood risk assessment, there are currently no drawings provided to show the proposed drainage layout. We recommend that a drawing is provided to show the portioning of the drainage within the development.*

*2) Within the Flood Risk Assessment it was proposed that further attenuation storage to be provided. However, it is not clear whether swales/ drainage basins would be used or storage tanks to provide additional storage. We therefore seek clarification which features are to be used the location of these items within the drainage layout.*

*We therefore recommend that this application is not determined until further details of the drainage layout have been provided for review."*

Further details were provided and the Lead Local Flood Authority commented further:

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*“Kent County Council as Lead Local Flood Authority have reviewed a copy of the indicative drainage layout for the development and proposes a mixture of permeable paving and attenuation tanks. As this a full planning application, we request a pre-commencement condition is attached to this application because further details of the proposed drainage system are necessary before any work on site can take place. This ensures the proposed drainage strategy is suitable to manage surface water for the site and to not increase the risk of surface water flooding.”*

On the basis of the above, conditions requiring a sustainable surface water drainage scheme and a verification report have been recommended.

- 6.9 **SBC Environmental Protection Team** raise no objection subject to a condition requiring a code of construction practice.
- 6.10 **Southern Water** recommended conditions relating to the diversion of the public sewers; the occupation of the development to be phased to align with the delivery by Southern Water of any sewerage network reinforcement required and for the means of foul water sewerage.
- 6.11 **KCC Developer Contributions** originally requested £326,520.00 for primary education; £337,464.00 for secondary education; £139,115.52 for secondary education land; £4350.72 for Community Learning; £2705.99 for Youth Services; £3457.14 for Libraries and £4391.28 for Social Care. Following discussions with the agent and the applicant's consultant the amount requested for secondary education has been reduced to £63,626.13 towards Highsted Grammar School expansion and the secondary school land contribution is no longer required (as it proposed to be delivered via an alternative mechanism). The other requests have remained as set out above.
- 6.12 **SBC Greenspaces Manager** has stated *“There is understandably as this is an infill scheme, little opportunity for incorporating on-site open space into the proposal. The proposed design strongly reflects the existing block road layout and character of the existing dwellings. As such and given the scale of the submission, I consider that the proposal should contribute to improving the capacity and usability of existing open space and play facilities in Minster. We would seek a contribution of £446.00 per dwelling as identified in the Open Spaces & Play Strategy 2018-2022 towards enhancements in the local area (primary focus will be The Glen).”*

## **7. BACKGROUND PAPERS AND PLANS**

- 7.1 The application has been supported by site layout drawings; elevations floorplans; site sections; flood risk assessment; habitat appraisal; landscaping details; species surveys; and topographical surveys.

## **8. APPRAISAL**

### **Principle of Development**

- 8.1 Although not specifically allocated, the application site falls entirely within the built up area boundary of Minster-on-Sea. I also note that the site lies within what is described in policy ST 6 as 'The West Sheppey Triangle'. Both this policy and ST 3 identifies this

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area as a growth area in respect of meeting the Isle of Sheppey's development needs. As such, the proposal would support this high level requirement of the adopted development plan. Furthermore, it is also important for Members to note that the Council are currently unable to demonstrate a 5 year housing land supply. As a result of this, I am of the view that the benefits of addressing this shortfall, upon a site within an existing built up area boundary and identified growth area should be given additional weight. As such I am of the very firm view that the principle of residential development is accepted.

**Density and mix of dwellings**

- 8.2 The application proposes 72 dwellings on a site 2.55 hectares in size, equating to 28 dwellings per hectare. The supporting text to policy CP 3 of the Local Plan sets out that the density of the site will be informed by local characteristics and the context of the site. In this case, the proposal shows that the layout of the site will be largely consistent with the existing surrounding pattern of development and the proposed properties will benefit from large private amenity spaces. In addition to this, the site incorporates some retained vegetation (discussed in more detail below) which impacts upon the developable area. In my opinion, the density of the site is broadly consistent with the surrounding area and on this basis is acceptable.
- 8.3 The mix of the dwellings proposed is 33 x three bed units and 39 x four bed units. Policy CP 3 of the Local Plan identifies the 'Main Issues, purpose and objectives of housing proposals' in specific local housing market areas. In terms of Minster, the following is stated: *"Demand is greatest for family housing. Future development of quality family housing that reflects the character of the area should be encouraged. If opportunities arise, improve design and/or levels of sustainability especially in the pockets of deprivation found in this market area."* I believe that the proposal sits comfortably within the objectives in this specific housing market area by providing for family housing. As such I believe the proposal is acceptable in this regard.

**Visual Impact and the streetscene**

- 8.4 As set out in the site description above, the existing site comprises unmanaged scrub vegetation. Further to this, the changes in site levels are quite pronounced with the site sloping downwards from east to west. As such, it is clear from these two points alone that how the site responds to these specific issues is of fundamental importance.
- 8.5 The application proposes development along the existing historic routes of the highways that pass through the development site. Further to this, there is an additional highway proposed within the site, running at 90 degrees to the existing road layout, approximately parallel to The Broadway. Since the receipt of the original application a pedestrian / cycle route linking Augustine Road and Scarborough Drive has been amended to propose a vehicular route. As a result, a vehicular route within the site now links Sexburga Drive, Augustine Road and Scarborough Road. In my view this provides a good level of connectivity both within the site and to the existing surrounding network of streets. As a result I am of the view that the site has been laid out in a logical manner which respects the surrounding pattern of development. The additional highway which has been created will in my view give rise to added benefits as set out above. Further to this, dwellings are all proposed to front onto the highways and provide dual frontages on corner plots. As such I consider the proposal to be acceptable in this regard.

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- 8.6 The surrounding pattern of development has largely evolved on a piecemeal basis and as such, there is both a varied mix of dwelling types and styles which have been constructed in a fairly informal building line along the existing highways. The dwellings that have been proposed follow this informal building line with the frontage of dwellings staggered. I believe that this aspect of the application takes the relevant cues from the existing pattern of development in the area and is in my opinion appropriate.
- 8.7 As there is not a prevailing design type in the surrounding area I do not believe that there is a clear reference point from which the proposal could draw from. The application proposes variations in the proposed house types but not to the point where the development would in my opinion appear contrived. I do not believe that it is logical to provide 72 different house types in order to reflect the inconsistent pattern of design in the surrounding area. As such, the approach that has been taken, to provide some variation, but within limits, is I believe appropriate, and in my view will allow the comprehensive development of the site to appear coherent in visual terms.
- 8.8 I consider that the bespoke design of the proposed properties, a number of which are defined by their steeply pitched roofs, glazed apex roofs and use of bricks and weatherboarding will have a positive impact upon visual amenities. Due to the above features the elevations are contemporary and I consider them to be appropriate in this context. The use of weatherboarding is common throughout many parts of Sheppey, as such I believe that this is a suitable use of materials in the wider context. In terms of the design of the properties I am of the opinion that the proposal will satisfy the specific requirement of policy CP 4 and the aims of the NPPF as set out above. I have recommended a condition requiring specific details of materials to ensure that this element of the scheme is acceptable.
- 8.9 In terms of the scale of the proposed properties, they will be a mixture of 2 and 2 ½ stories with rooms in the roofspace. Due to the mixed pattern of surrounding dwellings, there are a number of instances locally where dwellings of different scales are located adjacent to one another. As such, in my opinion, where the dwellings transition from the existing to the proposed, there is already precedent in the surrounding area for buildings of varying heights to sit side by side. Although this will be required to be assessed as to whether it is acceptable in respect of residential amenities (considered below), I am of the view that the scale of the dwellings and the transition between the existing and proposed would not be out of keeping with existing local examples.
- 8.10 In terms of the site levels, the application has been supported by site section drawings. These show how the dwellings will step down with the sloping ground levels and how they relate to existing development. In my view the details show that the development has responded appropriately to the challenging gradients on the site. However, to ensure this can be controlled, I have recommended a condition which requires details of the finished floor levels to be submitted and approved.
- 8.11 A key consideration in the assessment of the visual impact of the scheme is the soft landscaping proposals. These have been submitted in detail and show a mixture of shrub and tree planting throughout the development. In addition, to this, a corridor of the existing scrub vegetation is shown as being retained to the rear of both the proposed and existing properties. Due to the size of the plots the development benefits in the main from on plot parking with sufficient room for landscaping. As a result, I am of the view that the drawings have in the most part taken the opportunity to provide trees within the plot frontages which I believe will have a positive impact upon the street-scene. I note that no trees are proposed in the frontages of plots No.50-55. I have raised this

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with the agent who has commented that this is due to the existence of underground services running along the frontages to these properties. Therefore, on the basis that I consider the rest of the site to include sufficient levels of landscaping that on balance this is acceptable. In addition, due to the generous size of the private amenity space, trees have been proposed in the rear gardens of the properties, providing significant further benefits in terms of visual amenity and biodiversity in my view. Overall I believe the landscaping proposals to be acceptable and have included a condition to secure these details.

- 8.12 I have also made an assessment of the scheme against Building for Life 12 (as agreed by the Local Plan Panel on 25.04.18), and consider that it scores well in terms of this. My assessment is appended.

**Residential Amenities**

- 8.13 As set out above, due to the site being surrounded by existing residential properties the impacts of the development upon these neighbouring units will be required to be carefully considered. I also note neighbouring objections which relate to a loss of privacy, loss of outlook and noise, smells and dust caused by the development.
- 8.14 Firstly, in respect of noise, smells and dust, I note the comments of the Council's Environmental Protection Team in terms of their recommendation for a code of construction practice. This will require details of how matters of noise and dust will be suppressed and managed. Due to the proximity of the neighbouring properties I am of the view that this matter is of high importance and as such I have recommended this condition which I believe will allow these matters to be assessed and controlled. In terms of smells, I do not believe that the proposal is likely to give rise to unacceptable odours. However, if this was to be the case then the Council's Environmental Protection would be able to investigate this as a statutory nuisance, although this would not be a planning matter. In addition to this, having discussed the proposal further with the Council's Environmental Protection Team I have also recommended that conditions restricting construction hours, and tighter time restrictions on any impact pile driving are imposed.
- 8.15 As development is proposed to take place along the existing highways, there are 11 dwellings which development would take place immediately adjacent to. I have, during the course of the application, undertaken an assessment of the impact that the proposed properties would have and have requested a number of amendments to the scheme. This has largely involved altering the position of dwellings within the plots to restrict instances where I believe there would be a potentially harmful impact upon the light and outlook that these existing properties would benefit from. The agent has amended the drawings in line with my suggestions and in this respect I consider that the proposal would not give rise to unacceptable harm to neighbouring properties.
- 8.16 In addition to the above the proposed properties have a rear-to-rear relationship with a number of existing properties. The Council would usually expect rear-to-rear distances of a minimum of 21m. In this case, all rear to rear distances with direct views exceed this distance. In a number of the cases the distances are around 40m and in some cases in excess of 60m. I do note that unit no.2 would be separated from the existing property at No.172 The Broadway by 18m at the closest point. However, the proposed unit due to its orientation does not have a direct view towards the rear of No.172. I also note the proposed trees along the boundary which would assist in disrupting views. As such I consider that this relationship would not be unacceptably harmful. Overall, based

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upon the above assessment I do not believe that the proposal would give rise to an unacceptable loss of privacy.

- 8.17 The proposal has also created some rear to flank relationships between dwellings. The Council would usually expect rear to flank distances to be a minimum of 11m. In this case, the closest relationship created would be 13.2m and as such I consider this to be acceptable.
- 8.18 In terms of the relationship between the proposed properties, as discussed above, a large number of the dwellings benefit from very generous gardens. In addition there is retained planting between the properties. As a result the minimum distances are exceeded, in some cases allowing separation distances of up to 50m. As a result I consider this to be acceptable.
- 8.19 In relation to garden depths, the Council would generally expect these to be a minimum of 10m. Having assessed these, I have noted one instance (unit 68), where the garden depth would be slightly below this. However, I am of the view that the shortfall is so minimal as to not give rise to any serious harm the amenities of future occupants. In most case the gardens exceed 10m in depth by some considerable margin. In overall terms, based upon the assessment above I am of the view that the proposal does not give rise to unacceptable harm to residential amenities.

**Ecology**

- 8.20 As referred to above, the site has been unmanaged for a long period of time and as a result is covered in vegetation. Due to this, there is the distinct possibility that the site provides a habitat for wildlife, a matter raised by the Parish Council and neighbours. The application when originally submitted was supported by a Preliminary Habitat Appraisal and a Nesting Bird Survey and KCC Ecology were consulted. As can be seen from the consultation section above, KCC Ecology advised that as the Preliminary Habitat Survey identified the potential for reptiles, breeding birds and that the habitats on the site present opportunities for foraging bats. As a result additional surveys were required to assess the ecological importance of the site.
- 8.21 Surveys were subsequently undertaken which did not record the presence of any reptiles. Therefore no specific mitigation measures were recommended and KCC Ecology have agreed with this conclusion.
- 8.22 A Bat Activity Survey was also undertaken and on this basis I re-consulted with KCC Ecology. KCC commented that they required further information in respect of a list of bat passes recorded during the initial survey and bat passes recorded at each spot check. In addition, the retention of 'edge habitats' in the site was recommended as the layout failed to make provision for biodiversity beyond the planting of the trees as shown. KCC also considered that whilst the loss of nesting opportunities for breeding birds could be offset to some degree by nesting boxes, the reduction in the availability of foraging habitat must be taken into account.
- 8.23 Due to the above comments, further ecological information was submitted which comprised bat survey data, a revised layout, landscaping plan and lighting plan. The revision to the layout now includes the retention of the existing habitat in various parts of the site. The retained habitat is located in what is likely to be dark areas between the gardens and KCC Ecology are of the view that this will help to ensure its continued

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suitability for foraging bats and will provide opportunities for nesting birds.

- 8.24 KCC Ecology have requested a number of conditions relating to an ecological design strategy; a Landscape and Ecological Management Plan; a Biodiversity Method Statement; and a lighting strategy for biodiversity. I do note KCC's comments in respect of their advice that the inclusion of the proposed ecological features will ensure that there are opportunities for wildlife within the proposed development. However, it is their view that if a biodiversity metric (which is not a planning requirement) was applied then a net loss of biodiversity would be apparent. I have discussed this further with the Biodiversity Officer at KCC. They have confirmed that although they are not objecting to the application, and that the recommended conditions would ensure that ecological impacts are minimised, due to the extent of the loss of scrub habitat they consider that there would be an overall loss of biodiversity.
- 8.25 In respect of assessing this, policy DM 28 of the Local Plan states *"Development proposals will conserve, enhance and extend biodiversity, provide for net gains in biodiversity where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated."* The NPPF at paragraph 170 states (amongst other matters) that *"Planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures."* In respect of this issue, I note that although the NPPF is more robust in respect of setting out that decisions should provide *'net gains for biodiversity'*, the Local Plan does state that this should be provided for *'where possible'*. Furthermore, I also note that both the NPPF and Local Plan require proposals to minimise any adverse impacts. In my view, it is clear from the comments of KCC Ecology that harm in this case will be minimised by the inclusion of the recommended conditions, which I have imposed below.
- 8.26 Furthermore, I believe it must be taken into account that the site is unable to be developed without the loss of a proportion of the existing scrub habitat. However, I must give significant weight to the benefits of delivery of housing in a sustainable location that this proposal would allow. This weight is increased further due to the Council's lack of a 5 year housing land supply. As such, I am of the view that the social benefit provided by the delivery of houses in this location would outweigh the harm which KCC Ecology are of the view can be minimised by the conditions discussed. On this basis I believe that the impact upon biodiversity should not warrant a reason for refusal.

**Highways**

- 8.27 As can be seen from the comments of the Parish Council and local representations set out above, a large number of concerns relate to highway matters. For clarity I have quoted the comments of KCC Highways & Transportation in the consultation section above.
- 8.28 The application site includes a number of existing unmade highways which are proposed to be made up to adoptable standards as part of this scheme. As a result, where both Sexburga Drive and Augustine Road meet The Broadway there will be sections of made roads providing links through to the existing unmade section of Scarborough Drive, Sexburga Drive and Augustine Road. As such, I consider that the proposal will allow for better connectivity through the site and within the surrounding area. As a result, I believe that the making up of the roads to adoptable standards will be a noticeable benefit to



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arise from the scheme. Some comments have been received relating to making up other sections of the highway network. For clarity, it is not proposed to make up any of the existing unmade roads outside of the application site. On the basis that these are not in the control of the applicant and that KCC Highways & Transportation do not require this I do not consider it to be reasonable to request, and I do not believe that without this taking place the development would be unacceptable. Furthermore, KCC Highways & Transportation have recommended a number of conditions in relation to the details of the highways. This will require acceptable construction details to be submitted and will ensure that the works are carried out appropriately.

- 8.29 Concern has also raised in respect of existing visibility, in particular on the junction of Augustine Road / The Broadway. KCC Highways & Transportation have paid particular attention to this and I note that their comments as set out above. For the avoidance of doubt, the visibility splay for the Augustine Road / The Broadway junction does slightly cross third party land (and as a result there can not be complete certainty about what may happen in the future). However, I give significant weight to the comments of KCC Highways & Transportation who have stated that this is an existing junction which enjoys highway rights of access for the public to use them currently. In addition, even if the junction was made up via another means then this arrangement would have remained the same. As a result, and on the basis that KCC Highways & Transportation raise no objection I consider the visibility to be acceptable.
- 8.30 In respect of parking provision, I note the initial comments of KCC Highways & Transportation which required some amendments to the parking layout. After liaising with the agent these have been provided and I have re-consulted with KCC Highways & Transportation. As can be seen from the comments, the parking numbers and layout is considered acceptable. In respect of this, a large number of the properties, due to the generous size of the plots have parking provision in excess of the requirements of the Kent Design Guide Review: Interim Guidance Note 3, Residential Parking document. In addition, the vast majority of the properties have 2 independently accessible spaces with a large number of the properties benefitting from 3 spaces. As such, I believe that the properties benefit from a generous and acceptable level of parking.
- 8.31 Finally, a swept path analysis has been provided to demonstrate that a refuse vehicle will be able to manoeuvre around the site. This has been assessed and considered acceptable by KCC Highways & Transportation and as such I believe that this matter has been acceptably dealt with.
- 8.32 Overall, I believe that although concern has been raised I am of the view that based upon the above assessment the impact of the development upon highway amenity and safety is acceptable.

**Flooding and Drainage**

- 8.33 I note that a number of neighbour comments relate to flooding and drainage issues. The site lies partly in flood zone 2 and partly in flood zone 3. A flood risk assessment and drainage strategy has been submitted with the application and I have consulted with the Environment Agency (EA), the Lead Local Flood Authority (KCC) and Southern Water.
- 8.34 The EA raise no objection subject to a condition relating to finished floor levels. I have recommended this condition and therefore consider this matter to have been adequately dealt with.

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- 8.35 The Lead Local Flood Authority when assessing the originally submitted details were of the view that the principle of the surface water drainage strategy was acceptable but that clarification was sought regarding the drainage layout and where the drainage features would be located. Further details were provided and I re-consulted with KCC. No objection is raised in respect of these details subject to conditions requiring a sustainable surface water drainage scheme and a verification report. I have recommended these conditions and as such believe that this will ensure that surface water drainage issues can be adequately dealt with.
- 8.36 The application will require the diversion of public sewers and Southern Water have recommended a condition requiring details of the measures undertaken to divert the sewers. I have imposed this condition. A separate formal application for sewer diversion will need to be made, however, this is under S185 of the Water Industry Act and as a result will take place outside of the planning process.
- 8.37 Southern Water have also referred to initial studies indicating that there is an increased risk of flooding unless the required network reinforcement is carried out. This will be part funded through the New Infrastructure Charge with the remainder funded through Southern Water's Capital Works programme. Due to this, a condition is recommended requiring development to be phased and implemented in alignment with the delivery of any required sewerage network reinforcement.
- 8.38 In order for a condition to be imposed it is required to meet the six tests (necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; reasonable in all other aspects). Having assessed the condition recommended by Southern Water against the six tests I am of the view that the requirement for the development to align with the delivery by Southern Water of any sewerage network reinforcement required would fail to meet the test of being relevant to planning. This would be a matter solely between the developer and Southern Water and dealt with outside of the planning process, for that reason I have not recommended this condition. A further condition has been recommended which requires details of foul and surface water disposal. As surface water is dealt with via separate conditions I have amended the condition to avoid repetition and have recommended a condition relating to foul water disposal. As such I am of the view that this matter can be adequately dealt with in this manner.

**Developer Contributions**

- 8.39 Members will note from the consultation responses received above that in line with normal procedures for a development of this size, it would generate a requirement for financial contributions to deal with additional demand on local infrastructure. The contributions requested are as follows:

Primary Education - £326,520

Secondary Education - £63,626.13

KCC Community Learning - £4,350.72

KCC Youth Service - £2,705.99

KCC Libraries - £3,457.14

KCC Social Care - £4,391.28

NHS, Swale CCG - £62,208

Open space and play facilities - £32,112

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Wheelie Bins - £7,437.60  
 SPA mitigation (SAMMS) - £17,680.32  
 Administration and Monitoring Fee – 5% of the total – £26,224.46)  
 Total - £550,713.64  
 Plus 1 x wheelchair adaptable home

- 8.40 The applicant has agreed to pay these contributions. Members will note that the contributions for secondary education has been reduced following KCC's original request and the request for secondary school land has been removed. These contributions were challenged by the applicant's consultant on the grounds that they did not meet the tests for planning obligations as set out in paragraph 56 of the NPPF, which for clarity are as follows:

*"a) necessary to make the development acceptable in planning terms;  
 b) directly related to the development; and  
 c) fairly and reasonably related in scale and kind to the development."*

- 8.41 This led to KCC reassessing the impact that this development would have upon education facilities and seeking the revised contribution as set out above. I am of the view that this meets the tests for planning obligations along with the remainder of the contributions. Furthermore, despite local concern regarding a lack of local infrastructure, I have received no objection from the relevant consultees on this basis.

- 8.42 I am also content that a Section 106 Agreement is the best mechanism for addressing the SAMM contribution (of £245.56 per dwelling), the details of which are set out under the subheading 'The Conservation of Habitats and Species Regulations 2017'.

**Affordable Housing**

- 8.43 Policy DM 8 of the Local Plan sets out that on the Isle of Sheppey, the affordable housing percentage sought will be 0% and the application proposes nil provision of affordable housing.

- 8.44 I do also note paragraph 64 of the NPPF which states the following:

- 8.45 *"Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership<sup>29</sup>, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:*

- a) provides solely for Build to Rent homes;  
 b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);  
 c) is proposed to be developed by people who wish to build or commission their own homes;  
 or  
 d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.*

<sup>29</sup> As part of the overall affordable housing contribution from the site."

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- 8.46 As can be seen from footnote 29, the dwellings to be available for affordable home ownership are as part of the overall affordable housing contribution from the site. However, the Local Plan, due to the viability testing which has taken place, seeks 0% of affordable dwellings on the Isle of Sheppey. I give the Local Plan, which is area specific, a significant amount of weight. Therefore, as the overall affordable housing contribution from the site is 0%, there is no requirement for a provision of affordable home ownership as referred to in paragraph 64 of the NPPF.
- 8.47 In addition, the NPPF reference to affordable home ownership is different from affordable housing that the Local Plan seeks developments to deliver (in circumstances where it is viable to do so) which is heavily weighted towards affordable rent.
- 8.48 I am also aware that subject to planning permission being granted, the Council has expressed an initial interest in purchasing 8 of the dwellings. These would not be secured under the terms of the Section 106 Agreement (or via a planning condition) and if this option is taken forward would be a separate matter outside of the planning process. However, if secured they would be provided as affordable housing.
- 8.49 Therefore, although the planning permission, if granted, would not secure any affordable housing, I am of the view that as the Council is the owner of a proportion of the site there is potential that 8 of the units will be able to be secured as affordable dwellings. In addition to this, there is also the possibility that by not including this within the terms of the Section 106 Agreement allows access to Central Government grant funding which would potentially accelerate this process. As such, in the circumstances I believe that the possibility has been created for the site to meet the affordable housing needs of specific groups. Although the weight I am able to give to this is heavily restricted by the fact that the planning permission will not secure any affordable units, I believe that Members should be aware of this.

**The Conservation of Habitats and Species Regulations 2017**

- 8.50 The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale SPA which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 8.51 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£245.56 per dwelling as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.
- 8.52 However, the recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when

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determining the impacts of a development on protected area, “it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.” The development therefore cannot be screened out of the need to provide an Appropriate Assessment (AA) solely on the basis of the agreed mitigation measures (SAMMS), and needs to progress to consideration under an AA.

- 8.53 In this regard, whilst there are likely to be impacts upon the SPAs arising from this development, the scale of development (72 dwellings within the built up area boundary with access to other recreation areas) and the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff I believe will ensure that these impacts will not be significant or long-term. However, in order to confirm this I have carried out an Appropriate Assessment and re-consulted with Natural England. Natural England have confirmed that subject to the Council securing appropriate mitigation, via the SAMMS payment, then this will prevent harmful effects on the protected sites. As set out, above, the applicant has agreed to pay the tariff and as such I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPAs.
- 8.54 Finally, it can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others. (<https://birdwise.org.uk/>).

**Other Matters**

- 8.55 Although a large number of the matters raised by the Parish Council and neighbouring properties have been considered as part of the discussion above, of those that remain I comment as follows. I have been made aware that there is a person residing on the site. Although this is not a planning matter I have passed this information onto the relevant department within the Council who have followed up the matter separately.
- 8.56 In respect of the comments relating to loss of views, impacts on property values and property deeds, Members will be aware that these are not material planning considerations and as such I will not elaborate further on these matter. Furthermore, I note the comment in respect of children using the site as a play area. This may be the case, however I note that there is open space provision at The Glen, which is located less than 500m away from the application site. I also note the open space contribution that the applicant has agreed to pay which will be channelled towards improving this local facility. As such, I consider the proposal acceptable in this regard.

**CONCLUSION**

- 8.57 Overall, I give very significant weight to the sustainable location of the site within the built area boundary. The adopted Local Plan directs development towards these areas and upon the Isle of Sheppey itself, there is clear aspiration in the Local Plan for growth within the West Sheppey Triangle, this includes the settlement of Minster-on-sea. I am of the view that the design and layout of the dwellings has been well considered and will lead to a logical and comprehensive development of what is essentially a large infill site. I believe that the layout and scale of the dwellings will not give rise to an unacceptable impact upon residential amenities and via the inclusion of conditions relation to

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construction management and hours that this will limit any harm to an acceptable degree.

8.58 I do note the comments of KCC Ecology and have considered this detail above. To summarise, the conditions recommended would minimise the harm that is caused to biodiversity. Having considered the application as a whole, I am of the view that the benefits of housing delivery in this sustainable location would outweigh this minimised harm. I also note that no objection is raised from technical consultees.

8.59 On the basis of the above, I consider that planning permission should be granted for this development subject to the conditions listed below and an appropriately worded Section 106 Agreement to include the contributions as set out in this report.

**9. RECOMMENDATION - GRANT** Subject to the following conditions:

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

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

- 2) The development hereby approved shall be carried out in accordance with the following drawings: 16.16.10N; 16.16.100; 16.16.101; 16.16.102; 16.16.103; 16.16.104; 16.16.105; 16.16.106; 16.16.107; 16.16.108; 16.16.109; 16.16.110; 16.16.111; 16.16.112; 16.16.113; 16.16.114; 16.16.115; 16.16.116; 16.16.117; 16.16.118; KDP/1520/18 Rev A; and KDP/1521/18 Rev A.

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

- 3) No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- 4) No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

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

- 5) The development shall be carried out in accordance with the submitted flood risk assessment (Herrington Consulting Limited, dated September 2018) and no

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dwelling shall be occupied until the finished floor level for all living accommodation has been set at a minimum of 4.9m AOD, and the finished floor level for all sleeping accommodation has been set at a minimum of 5.2m AOD for that dwelling.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

- 6) The development hereby approved shall not commence until details have been submitted to and approved in writing by the Local Planning Authority demonstrating how the development will meet the principles of 'Secure by Design'. The development shall then be completed strictly in accordance with the approved details.

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

- 7) No development shall take place until an ecological design strategy (EDS) has been submitted to and approved in writing by the local planning authority addressing:
- 1) Retention and protection of existing habitats during construction;
  - 2) Provision of ecological features.
- The EDS shall include the following:
- a) Purpose and conservation objectives for the proposed works.
  - b) Review of site potential and constraints.
  - c) Detailed design(s) and/or working method(s) to achieve stated objectives.
  - d) Extent and location/area of proposed works on appropriate scale maps and plans.
  - e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
  - f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
  - g) Persons responsible for implementing the works.
  - h) Details of initial aftercare.

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

Reason: In the interests of biodiversity.

- 8) No development shall take place until a landscape and ecological management plan (LEMP) has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following:
- a) description and evaluation of features to be managed;
  - b) ecological trends and constraints on site that might influence management;
  - c) aims and objectives of management;
  - d) appropriate management options for achieving aims and objectives;
  - e) prescriptions for management actions, together with a plan of management compartments;
  - f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
  - g) details of the body or organisation responsible for implementation of the plan;

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- h) ongoing monitoring and remedial measures.

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

Reason: In the interests of biodiversity.

- 9) No development shall take place (including any ground works, site or vegetation clearance), until a method statement for the protection of biodiversity, including bats, reptiles, nesting birds and hedgehogs, during vegetation clearance and construction works has been submitted to and approved in writing by the local planning authority. If two years from the submitted surveys (undertaken in June 2019) has elapsed before works commence, the Biodiversity Method Statement shall be informed by updated ecological survey(s). The content of the method statement shall include the:
- a) Purpose and objectives for the proposed works;
  - b) Working method, including timings, necessary to achieve stated objectives;
  - c) Extent and location of proposed works shown on appropriate scale plans;
  - d) Provision for species rescue;
  - e) Persons responsible for implementing works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works.

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

Reason: In the interests of biodiversity.

- 10) No development shall take place until a “lighting design strategy for biodiversity” for the site has been submitted to and approved in writing by the local planning authority. The lighting strategy will:
- a) Identify those areas/features on site that are particularly sensitive;
  - b) Show how and where external lighting will be installed in accordance with ‘Guidance Note 8 Bats and Artificial Lighting’ (Bat Conservation Trust and Institute of Lighting Professionals);
  - c) Provide for construction phase and operational phase of development. All external lighting will be installed in accordance with the specifications and locations set out in the strategy and will be maintained thereafter in accordance with the strategy.

Reason: In the interests of enhancing biodiversity opportunities.

- 11) No dwellings hereby approved shall be occupied until the highway works indicated on drawing 16.16.10 Rev N have been carried out in accordance with a design and specification to be submitted to and approved in writing with the Local Planning Authority. The details shall thereafter be carried out in accordance with the approved details.



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Reason: In the interests of enhancing biodiversity opportunities.

- 12) Prior to the works commencing on site, details of a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority to include the following:
1. Routing of construction and delivery vehicles to / from site;
  2. Parking and turning areas for construction and delivery vehicles and site personnel;
  3. Timing of deliveries;
  4. Provision of wheel washing facilities;
  5. Temporary traffic management / signage;
  6. Measures to minimise the production of dust on the site;
  7. Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier;
  8. Design and provision of any site hoardings;
  9. Measures to manage the production of waste and to maximise the re-use of materials.

Reason: In the interests of residential amenity and road safety.

- 13) The area shown on drawing no. 16.16.10 Rev N as car parking and turning space shall be provided before any of the dwellings are occupied and shall be retained for the use of the occupiers of, and visitors to the dwellings, and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto.

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

- 14) Pedestrian visibility splays 2m x 2m with no obstruction over 0.6 m above the access footway level shall be provided at each private vehicular access prior to it being brought into use and shall be subsequently maintained.

Reason: In the interests of highway safety.

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

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

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- 16) 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.

Reason: In the interests of highway safety.

- 17) Prior to the commencement of development a detailed sustainable surface water drainage scheme for the site shall be submitted to (and approved in writing by) the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

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

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

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

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

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

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

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waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

- 19) Prior to the commencement of development the measures undertaken to divert the public sewers shall be submitted to and agreed in writing by the Local Planning Authority (in consultation with Southern Water).

Reason: To ensure the protection of the public sewers.

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

Reason: To ensure that foul water is adequately dealt with.

- 21) 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 08:00 – 18:00 hours, Saturdays 08:00 – 13:00 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

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

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

Reason: In the interests of residential amenity.

- 23) Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no gates, fences, walls or other means of enclosure shall be erected or provided in advance of any wall or any dwelling fronting on a highway without the consent in writing of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 24) The development shall be completed strictly in accordance with details in the form of finished floor levels for all the dwellings which shall firstly have been submitted to and approved in writing by the Local Planning Authority.

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

- 25) Each dwelling shall be provided with 1 electric vehicle charging point and no dwelling shall be occupied until the charging point for that dwelling has been installed.

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

- 26) No development beyond the construction of foundations shall take place until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include means of enclosure and hard surfacing materials.

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

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

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

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

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

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

In accordance with paragraph 38 of the National Planning Policy Framework (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.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

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