

<b>2.7 REFERENCE NO - 20/500400/OUT</b>		
<b>APPLICATION PROPOSAL</b>		
Outline Application with access matters sought for the erection of up to 5 no. dwellings on the land to the south of Chequers Road, Minster-on-Sea. (All other matters reserved for future consideration.)		
<b>ADDRESS</b> Land South Of Chequers Road Minster-on-sea Kent ME12 3SH		
<b>RECOMMENDATION</b> Grant subject to conditions and SAMMS payment		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The Council is currently unable to demonstrate a 5-year supply of housing sites and this development would contribute towards addressing this identified under supply. Whilst the site falls outside the settlement boundary it is a sustainable location adjacent to an existing urban area with a good range of services which can be reached by sustainable travel modes, and there are a range of public transport options which enable connectivity to nearby larger urban areas. When assessed against para 11 of the NPPF, it is considered that the positive impacts of the development in terms of its sustainable location and social benefits of the scheme comply with the environmental and social objectives of sustainable development. Whilst there would be an adverse impact from the development on undeveloped land, it is not considered that this adverse impact would significantly and demonstrably outweigh the identified benefits of the scheme. As such when assessed against paragraph 11 of the NPPF, the proposal is considered to comprise sustainable development, and the principle of this development is considered acceptable.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Parish Council objection		
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Mr Richard Alderson <b>AGENT</b> DHA Planning
<b>DECISION DUE DATE</b> 29/05/20		<b>PUBLICITY EXPIRY DATE</b> 06/04/20

**Planning History**Adjacent site to the north

18/501999/FULL

Minor material amendment to condition 2 (approved plans) to application 16/505623/FULL with amendment indicating the site entry moving slightly towards the east due to a electric pole being in the way of the original site entranced.

Approved Decision Date: 22.06.2018

17/506198/FULL

Minor material amendment to Condition 2 of planning permission 16/505623/FULL to substitute elevation drawings to change shape of rear single storey roof form from gable end to lean-to and enlarge first floor rear window above. Alter position of front door, and internal alterations to layout.

Approved Decision Date: 25.01.2018

16/505623/FULL

Development of 5 detached and 4 semi-detached dwellings

Approved      Decision Date: 03.11.2017

SW/75/0279

Residential dwellings outline

Refused      Decision Date: 22.05.1975

## **1. DESCRIPTION OF SITE**

- 1.1 The application site is located to the south of Chequers Road and is approximately 0.4 hectares in size. It is roughly triangular in shape and is currently undeveloped, and therefore can be considered to be greenfield land. The site slopes gradually from north to south. Access to the site is provided from Chequers Road via a track that runs along the north eastern boundary of the site.
- 1.2 The site is immediately south of the development of nine houses approved under application 16/505623/FULL. To the west are residential properties situated along Elm Lane, to the south is open countryside and to the east is Danedale Stables. There is a pending planning application for five dwellings at Danedale Stables (reference 19/505353/FULL).
- 1.3 The site lies close to the built up area boundary of Minster (the built up area boundary runs along the northern side of Chequers Road), and as such, is considered to lie in open countryside.

## **2. PROPOSAL**

- 2.1 Outline planning permission is sought for the erection of up to five dwellings with only approval for means of access to the site being sought as part of this application, which would leave matters such as appearance, scale, layout and landscaping to be dealt with under a subsequent reserved matters application.
- 2.2 Plans have been provided showing an indicative layout of the proposal, including plans of the front elevations of the dwellings and floorplans. The layout plan shows five detached two storey dwellings on the site, arranged in a linear fashion. Two indicative types of dwellings are proposed, both of traditional design. Type A (which is shown located on plots 1 and 5) would have a gable roof with hip ends, with a projecting gable feature on the front elevation of the property, a footprint of 9m x 10m, with an eaves height of 5m and a ridge height of 8.5m. Type B (which is shown located on plots 2, 3 and 4) consists of a hipped roof with a catslide to the side, which will accommodate an attached single garage, a footprint of 9m x 12m, with an eaves height of 5m and a ridge height of 9m. Both types of properties are shown having an open plan living area, study, separate front room and cloakroom on the ground floor, and four bedrooms (on with an en-suite) and bathroom on the first floor.
- 2.3 The existing access onto the site will be utilised and extended into the site, and will run along the northern boundary of the site. Two parking spaces will be provided at each property, along with an internal garage at plots 2, 3 and 4 and a detached garage at plot 1. A visitor parking space will be provided opposite plot 2. The indicative layout indicates hedge and tree planting is proposed around the site boundaries.

## **3. PLANNING CONSTRAINTS**

- 3.1 None

## **4. POLICY AND CONSIDERATIONS**

- 4.1 The National Planning Policy Framework (NPPF): Paras 7, 8, 11 (sustainable development); 59-76 (delivering a sufficient supply of homes); 77-79 (rural housing); 170 (local and natural environment); 175 (biodiversity) and National Planning Practice Guidance (NPPG)
- 4.2 Development Plan: Policies ST3, CP3, CP4, DM7, DM14 and DM19 of Bearing Fruits 2031: The Swale Borough Local Plan 2017

## 5. LOCAL REPRESENTATIONS

- 5.1 One objection has been received from a neighbouring property. Its contents is summarised below:
- The application goes against Swale Borough Council Policy ST3 - Swale Settlement Strategy - and there should be NO exceptions to this policy.
  - The proposal lies within the open countryside and outside the built-up area where no development is permitted as dictated by Swale Borough Council Local Plan.
  - The proposal would set a precedent for the proliferation of similar developments to the detriment of the open countryside.
  - The access is totally unsuitable as it is opposite the junction of Danedale Avenue and vehicles would be unable to see to the right when leaving the site, making it dangerous.
  - During the summer, trees were chopped down on site prior to submitting the application, so much for protecting the environment. At a time of global warming trees can help to suck carbon dioxide from the atmosphere, so hence boost health and well being.

## 6. CONSULTATIONS

- 6.1 Minster Parish Council object to the application, stating the following:

*“The proposal lies within the open countryside outside the built-up area where no development is permitted as dictated by the Swale Borough Council Local Plan. The proposal would set a precedent for the proliferation of the same to the detriment of the open countryside.”*

- 6.2 Environmental Health – No objections subject to conditions relating to gas fired boilers, electric vehicle charging points, construction hours and dust control.
- 6.3 Kent Highways – *“With reference to the submitted Transport Technical Note, using the industry recognised TRICS software, it is noted that development would be expected to generate around 2 to 3 vehicle movements during the AM and PM peak hours. This would not be considered likely to lead to any significant traffic impacts on the local highway network, and it is recognised that the proposed access would utilise an historic existing access that currently serves the application site. The appropriate visibility sightlines, based on the speed limit of this section of Chequers Road, can be provided within the existing highway limits and this would also facilitate the provision of lengthier sightlines if required. Whilst there is no pedestrian footway link to the site at present, this is to be provided shortly as part of the planning obligation required by the adjacent housing development currently being constructed to the west of the proposed access. I would expect this development continue this footway across the whole site frontage of Chequers Road. Although it is proposed that the access would be formed as a vehicle crossing and measure 4.8m wide, I would consider that this should be widened to 5.5m for the first 10m from the carriageway edge to better accommodate two-way passage during turning movements at the point of access. I am satisfied that this detail can be*

*provided as part of any subsequent Reserved Matters application or Discharge of Condition application.*” Recommends conditions imposed below.

- 6.4 KCC Ecology – Originally requested further information relating to trees along the northern boundary. This was submitted and KCC Ecology stated “*We accept the conclusions of the submitted Preliminary Ecological Appraisal that the proposed development has limited potential to impact protected/notable species.*” Recommend conditions relating to the submission of a lighting scheme and ecological enhancement plan.
- 6.5 Natural England – Development will result in a net increase in residential development and as such mitigation is required.

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

- 7.1 Plans and documents relating to application 20/500400/OUT.

## **8. APPRAISAL**

### **Principle of Development**

- 8.1 The development site lies outside the built up area boundary where policies of rural restraint apply. The main relevant planning policy is ST3 of the Local Plan, which states that at locations in the open countryside outside the defined built up area boundaries, development will not be permitted unless supported by national policy and where it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities.
- 8.2 The National Planning Policy Guidance (NPPF) seeks to promote sustainable development in rural areas, and housing should be located where it will enhance or maintain the vitality of rural communities and avoid isolated new homes in the countryside.
- 8.3 Paragraph 79 of the NPPF states that the local planning authority (LPA) should avoid isolated homes in the countryside. Given the site’s position adjoining the settlement boundary and close proximity to existing residential dwellings, it is not considered that the development would constitute isolated homes in the countryside.
- 8.4 The Council cannot currently demonstrate a five-year housing land supply. In such situations, the NPPF advises that plans and decisions should apply a presumption in favour of sustainable development. Para 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways.
- 8.5 The site is just outside the built up settlement boundary of Minster. Minster itself forms part of the West Sheppey Triangle which is a Tier 3 ‘Other Urban Local Centre’ settlement within the Councils settlement strategy which is considered to provide a reasonable range of services. Policy ST6, the Isle of Sheppey area strategy states that the focus of development and long-term change is at settlements within the West Sheppey Triangle. The site is considered to relate well to the existing urban settlement of Minster and the West Sheppey Triangle which itself is considered to be sustainable as it has access to shops, services, education and healthcare facilities as well as public transport links to nearby larger urban areas. As such, I take the view the

proposal is located within a sustainable location, appropriate for residential development.

- 8.6 However the site comprises of undeveloped greenfield land and cannot be considered as brownfield or previously developed land. Therefore the development would take place on an undeveloped site which is considered to have a significant adverse impact.
- 8.7 The proposal is for five dwellings which would be of some social benefit. As outlined above, the site has good connectivity with an existing urban area with has a good range of services. As such it is considered that the proposed dwellings would help support the social viability of the existing urban area including existing shops, schools and nearby employment opportunities. It is considered that this would result in a positive impact. As economic benefits from the construction of these dwellings would be short-term, these are limited and would carry little weight. It is considered that there would be a neutral impact.
- 8.8 When assessed against para 11 of the NPPF, it is considered that the positive impacts of the development in terms of its sustainable location and social benefits of the scheme comply with the environmental and social objectives of sustainable development. The proposal would also help contribute towards the Borough's housing land supply, and whilst the proposal is a relatively small site it will make a contribution in a sustainable location. Therefore it is not considered that the adverse impact in terms of developing an undeveloped parcel of land would significantly and demonstrably outweigh the benefits of the scheme outlined above. As such, the proposal is considered to comprise sustainable development, and the principle of this development is considered acceptable.

### **Visual Impact**

- 8.9 At this stage, although it is not necessary, drawings have been submitted regarding the scale, appearance and layout of the proposal. Due to the presence of the development of nine houses to the north of the site, views of the proposal from Chequers Road will be limited. I note the site is currently undeveloped and the proposal will introduce a substantial amount of built form, however I consider the proposal will relate well to the residential development to both the north and west of the site, and as such will not cause significant harm the character and appearance of the countryside in my view.
- 8.10 The indicative layout shows the properties arranged in a linear form within the site, which reflects the surrounding linear development in the area. The detailed design of the dwellings are not being considered at this stage, but it is considered that two types of dwellings proposed here would not cause any harm to the character of the area taking into account the range of dwellings within the surrounding area.

### **Residential Amenity**

- 8.11 This outline application provides details of the scale, appearance and layout of the proposed buildings, however approval of these details are not being sought at this stage. Nonetheless I do need to consider whether the site is capable of accommodating up to five dwellings.
- 8.12 The closest residential properties are the nine dwellings under construction to the north of the site and Martindale, a two storey property to the west. Whilst layout and design are matters for future consideration, the application shows an illustrative layout which maintains sufficient spacing between proposed dwellings and existing neighbouring

properties. It is considered that the site can accommodate 5 dwellings without resulting in a significantly harmful impact upon existing neighbouring dwellings in terms of residential amenity.

- 8.13 The properties sit roughly in line with one another and as such I do not believe there will be any unacceptable overshadowing or overbearing impact between the properties. I do note that the distance between plot 1 and plot 2 is only 9.5m. The Council expects a minimum of 11m between rear and side elevations, to ensure any overshadowing/overlooking impact is acceptable. As such, the positioning of these properties will need to be altered to ensure an 11m gap can be provided. I consider this can easily be achieved on the site.
- 8.14 The submitted floorplans show each property will have four bedrooms, and the floorspace provided is acceptable and in line with the National Space Standards. The rear gardens will have a depth of between 9.5m (plot 1) – 22m (plot 5). The Council usually expects rear gardens to be a minimum of 10m in depth. The garden at plot 1 is slightly below this amount, however taking into account the concern raised at paragraph 8.14 above, the garden at plot 1 will need to be increased in order to provide an 11m gap to plot 2 to the west. As such, I consider the proposal is capable of providing a good standard of amenity for future occupiers.

### **Highways**

- 8.15 The development will utilise the existing access at the site. The appropriate visibility sightlines can be demonstrated, and as such, KCC Highways have no concerns regarding the use of this access upon highway safety. The submitted Transport Technical Note states that the development would be expected to generate around 2 to 3 vehicle movements during the AM and PM peak hours. These expected movements would not be considered likely to lead to any significant traffic impacts on the local highway network. As part of the adjacent housing development to the north of the site, a footpath is to be provided along Chequers Road to the west of the access. Highways have requested a condition to ensure this is continued across the whole site frontage of Chequers Road. I believe this will ensure pedestrian access to the site is acceptable from a highway safety perspective.
- 8.16 The Highways Authority did request one change to the proposed access. It is currently only 4.8m wide, and Highways consider this should be widened to 5.5m for the first 10m from the carriageway edge to better accommodate two-way passage during turning movements at the point of access. The site is wide enough to provide this, and therefore this detail is requested by condition. Overall, KCC Highways are satisfied with the proposed access subject to conditions, which I have imposed below and I therefore believe the access onto the site will be acceptable.
- 8.17 In terms of parking, the illustrative site location plan indicates each dwelling would have two car parking spaces, and one visitor space would be provided within the site. It is considered that adequate parking provision can be provided on site and this would be considered in depth when a detailed layout is available at reserved matters stage. As such I do not consider the proposal would be likely to increase parking pressure on the nearby area.

### **Landscaping**

- 8.18 There are a number of trees on the site however none of them have TPOs protecting them and preventing their removal. The proposed site layout plan shows several of the trees retained as well as indicative landscaping across the site. I consider that the

relevant landscaping condition included below will ensure a detailed landscape plan is provided.

## **SPA Payment**

8.19 I have for completeness set out an Appropriate Assessment below. Since this application will result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development there is no scope to provide on site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £250.39 per dwelling. The agent has provided written confirmation that the applicant would be willing to pay this mitigation fee in principle.

## **9. CONCLUSION**

9.1 The Council is currently unable to demonstrate a 5-year supply of housing sites and this development would help to contribute towards addressing this identified under supply. Whilst the site falls outside the settlement boundary it is a sustainable location adjacent to an existing urban area with a good range of services which can be reached by sustainable travel modes. Therefore I consider the application is acceptable in principle. I consider the site is capable of providing five dwellings that will not result in unacceptable impacts to residential or visual amenities. The proposed access is acceptable and will not cause harm to highway safety and convenience. As such I consider that the harm arising from this development is significantly and demonstrably outweighed by the benefits, and I recommend this application is approved.

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

### **CONDITIONS**

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

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

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

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

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

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

4. All hard and soft landscape works submitted and approved pursuant to condition (1) above 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.



5. 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.

6. Prior to the construction of the dwellings, details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials and measures.

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

7. The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and no dwelling shall be occupied unless the notice for that dwelling of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability.

8. The commencement of the development shall not take place until a programme for the suppression of dust during the 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 construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interest of residential amenity.

9. 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 0800 - 1800 hours, Saturdays 0800 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interest of residential amenity.

10. During construction provision shall be made on the site, to the satisfaction of the Local Planning Authority, to accommodate operatives' and construction vehicles loading, off-loading or turning on the site.

Reason: To ensure that vehicles can be parked or manoeuvred off the highway in the interests of highway safety.

11. Prior to the works commencing on site details of parking for site personnel / operatives / visitors shall be submitted to and approved by the Local Planning Authority and thereafter shall be provided and retained throughout the construction of the development. The approved parking shall be provided prior to the commencement of the development.

Reason: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents.

12. As an initial operation on site, 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 in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

Reason: In the interests of amenity and road safety.

13. The details submitted in pursuance of Reserved Matters shall show adequate land, to the satisfaction of the Local Planning Authority, reserved for parking or garaging in accordance with the Approved Parking Standards and, upon approval of the details this area shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority 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 the reserved vehicle parking area.

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

14. No dwelling shall be occupied until space has been laid out within the site in accordance with the approved drawings for cycles to be parked.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

15. Notwithstanding the approved plans, a 5.5m wide access for the first 10m from the carriageway edge shall be completed prior to the occupation of any buildings hereby approved in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

16. No dwelling shall be occupied until Electric Vehicle Charging facilities have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the provision and retention of electric vehicle charging facilities in the interest of reducing greenhouse gas emissions.

17. Before the first occupation of a dwelling / premises the following works between that dwelling / premises 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.

18. Before the dwellings hereby permitted are first occupied the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the access and points on the carriageway edge 43m from and on both sides of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 0.9m above the nearside carriageway level and thereafter maintained free of obstruction at all times.

Reason: In the interests of highway safety.

19. Within 3 months of works commencing on site a lighting scheme must be submitted for written approval by the Local Planning Authority demonstrating that it has been designed to ensure there will be minimal light spill on to the site boundaries and the surrounding area.

Reason: In the interests of biodiversity.

20. Within 6 months of works commencing an ecological enhancement plan must be submitted to the Local Planning Authority for written approval. The plan must clearly demonstrate what enhancements will be incorporated in to the site and where they will be located. The plan must be implemented as approved.

Reason: In the interests of biodiversity.

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

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

### **INFORMATIVES**

- (1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>
- The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.



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

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

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

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

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

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

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

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

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

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

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

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of

the standard SAMMS tariff (to be secured by either the SAMMS payment form or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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/>).

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.

