

<b>2.4 REFERENCE NO - 20/500858/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of 8 dwellings, comprising 6 affordable homes and 2 open market homes (cross subsidy).		
<b>ADDRESS</b> Land On The North East Staple Street Hernhill Kent		
<b>RECOMMENDATION</b> Grant subject to conditions , the signing of a suitably worded Section 106 Agreement to secure the proposed affordable housing and a SAMMS mitigation payment.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Called in by Councillor Valentine		
<b>WARD</b> Boughton And Courtenay	<b>PARISH/TOWN COUNCIL</b> Hernhill	<b>APPLICANT</b> English Rural <b>AGENT</b> Martello Building Consultancy
<b>DECISION DUE DATE</b> 01/05/20		<b>PUBLICITY EXPIRY DATE</b> 08/07/20

## 1. DESCRIPTION OF SITE AND HISTORY

- 1.1 The site consists of a small open area of agricultural land fronting the northern side of Staple Street, in the north-east quadrant of the crossroads formed by the lanes known as Staple Street, Bull Lane and Kemsdale Road. Staple Street itself is a Local Plan designated rural lane (as is Kemsdale Road) with limited, generally linear, development surrounded by open countryside and agricultural land. The site lies within a Local Plan defined Area of High landscape Value (AHLV)(Swale Level), as does most of Hernhill parish lying to the south of Thanet Way, although some parts here are designated as a Kent Level AHLV.
- 1.2 The site itself is partly fronted by an existing native hedge, with established orchards to the rear, and there are a number of existing residential properties on the opposite side of the lane. The application site measures 110 metres in width by 41m metres in depth at the western end and 35 metres at the eastern end. It slopes slightly down from east to west and from south to north, with long views possible across the site towards the north at its eastern end where there is no hedge.
- 1.3 The site is outside any established built-up area boundary and adjacent to, but not within, the Staplestreet conservation area, the boundary of which follows the road at this point and includes the properties opposite. To the east lies the junction of Staple Street and Church Hill, with The Three Horseshoes public house and Mount Ephraim beyond. The village church, primary school, village hall and the Red Lion public house are found on Church Hill, all within one mile.
- 1.4 There is a small convenience store, a post office, a further primary school and a petrol station in Boughton-under-Blean, again all within a mile of the site.

## 2. PROPOSAL

- 2.1 In 2015 the Rural Housing Enabler (RHE) Action with Communities in Rural Kent, carried out a housing needs survey, which identified a need for affordable housing in the parish of Hernhill. A need for twelve properties was identified (a later housing needs survey by the RHE carried out in 2019 confirmed the need as 11 dwellings). In April 2017, in conjunction with the Parish Council, the RHE identified eight possible sites for required housing. In May 2017 planning officers viewed these sites with the RHE and Parish Councillors, advising on the general suitability of each of these sites, with a focus on sites with best access to village facilities, and minimising need for private transport.
- 2.2 Of those sites deemed potentially suitable, the landowners of two of the most suitable sites were agreeable to selling their land. The site which is now the subject of this planning application was chosen of the two, as the other site had an issue with overhead cables which would hamper development. This site would provide the six homes required to meet fifty percent of the demand identified, plus two additional homes to facilitate the development.
- 2.3 The proposal as submitted is for the erection of eight dwellings, comprising six affordable homes and two open market homes, the latter paying towards the construction of the former via cross subsidy. The applicant has provided (on a confidential basis) detailed costings to show that even with the market housing the scheme will incur a significant financial loss, which they expect to fund from a combination of Homes England grant funding and their own funds.
- 2.4 The two open market homes would be 3 bedroom detached bungalows. The six affordable homes would be for affordable rent and comprise of the following: two 2 bedroom semi detached houses; one 2 bedroom semi detached bungalow; one 3 bedroom semi detached house; and two 1 bedroom flats.
- 2.5 Each of the open market bungalows would have a detached garage and two further off-road parking spaces. Each of the affordable properties would have two off-road parking spaces apart from the flats, which would have one space each. Four visitor parking spaces are also shown on the submitted site layout drawing. Each property would have a private amenity space, and cycle storage in the form of a shed.
- 2.6 The properties would be set back from the highway, behind the retained roadside hedge, with the access road running behind the hedge in front of the new dwellings, which would be arranged in a linear fashion. Access would be from Staple Street at the eastern end of the site (furthest from the crossroads), with the access road running in a westerly direction.
- 2.7 The properties are designed to complement local building styles, with a use of vernacular materials such as brick, white timber weatherboarding, tile hanging, and slate.
- 2.8 The proposal is accompanied by a Design and Access Statement; a Planning Statement; Ecological surveys; a Housing Needs Survey and Housing Cost Update (February 2020); Heritage statements; a Sustainable Drainage report; a Site Search summary; Statement of Community Involvement; a Transport Statement; a statement from the applicant, and one from the Parish Council; and a draft Section 106 Agreement.

- 2.9 The draft Section 106 Agreement seeks to ensure that the open market housing cannot be occupied without the affordable housing being provided, to regulate who qualifies for occupation of the affordable housing with a preference for those with local connections, and to safeguard the affordable housing against being used other than as affordable housing. This is still in draft form and will require some negotiation and amendment, but I have not attempted to do this yet pending Members' consideration of the application. However, the applicant is a leading specialist in this field with a strong track record and I see absolutely no reason to expect any problems in securing an acceptable agreement that meets the Council's planning policy objectives.

### 3. SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	4071m <sup>2</sup>	4071m <sup>2</sup>	-
No. of Storeys	-	1 or 2	+1 or 2
Net Floor Area	-	658m <sup>2</sup>	+658m <sup>2</sup>
Parking Spaces	-	18	+18
No. of Residential Units	-	8	+8
No. of Affordable Units	-	6	+6

### 4. PLANNING CONSTRAINTS

Adjacent to Conservation Area Staplestreet

Outside established built-up area boundary

### 5. POLICY AND CONSIDERATIONS

- 5.1 The National Planning Policy Framework (NPPF): Paragraphs 8 (Sustainable Development); 77 and 78 (Rural Housing); and 193 and 196 (Conservation Areas).
- 5.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Bearing Fruits): Policies ST1 (Sustainable Development); ST3 (Swale Settlement Strategy), CP3 (Delivering high quality homes), CP4 (Good Design), DM7 (Parking), DM9 (Rural Exceptions Housing), DM19 (Sustainable design and construction), DM21 (Water, flooding and drainage), DM24 (Conserving valued landscapes), DM26 (Rural lanes) and DM33 (Conservation Areas)
- 5.3 Of particular relevance to this case is policy DM9 (Rural Exceptions Housing) which reads, in full, as follows:

*“Rural Exceptions Housing*

*Planning permission for affordable housing to meet local needs in rural areas will be granted provided:*

1. *The site accords with Policy ST3 and/or is in a location where access to day to day services can be conveniently and easily achieved;*

2. *The site and proposed development would not have a significant adverse impact upon the character of the settlement, the surrounding countryside and the amenity of the existing community;*
3. *A need for the scheme is clearly justified by the applicant, to the satisfaction of the Council, by providing the following to accompany a planning application:*
  - a. *An up-to-date parish or village housing need assessment undertaken or carried out by a recognised and appropriate body;*
  - b. *A thorough site options appraisal; and*
  - c. *A prepared statement of community involvement that has sought to include the significant input of the Parish Council.*
4. *In addition, for schemes including unrestricted market houses/plots for sale, justification will be provided by the applicant:*
  - a. *To demonstrate that a scheme not relying on market housing has been considered and why it has been discounted or considered to be unviable; and*
  - b. *As to a number and types of housing proposed, which will be determined by the housing needs assessment and through an appraisal of viability to show the minimum provision of unrestricted market homes necessary to deliver a significantly greater proportion of local affordable houses for that site.*
5. *Proposals will be subject to a legal agreement that provides for the permanent control and management of any affordable housing to ensure its long term retention for local need."*

## 6. LOCAL REPRESENTATIONS

6.1 More than fifty letters of objection have been received from local residents. These objections may be summarised as follows:

- Only informed by the local paper that the site had been selected by the developer
- There are already hundreds of new houses being built on the edges of Faversham
- The site does not accord with policy ST3
- This is not an allocated site in the Local Plan
- Many previous applications have been refused within the parish stating that the infrequent bus service, lack of pavements and other public transport will mean a dependence upon travel by car
- The development does not satisfy the basic requirements of policy DM9
- Utilities for another eight houses will put an undue strain on the utility supply to existing properties
- The location of the drainage treatment plant on the front road side is questionable and will it smell
- Lack of parking within the proposed development that could impact pedestrian safety
- There are only 16 car parking spaces proposed as most households will have two cars, where will visitors park?
- The verge outside the proposed development currently has space for 6-8 cars used by residents, visitors and the local pub which will be lost if the development goes ahead

- The break in hedgerow for refuse collection could be used as a short cut by those living on the development
- Staplestreet is used as a rat run especially when there is an issue on the Thanet Way where traffic becomes chaotic and dangerous
- The road is often grid locked and emergency vehicles cannot get through at these times
- No footpaths or street lighting, with dangerous traffic at school times
- Car accidents have increased in the area
- Although there is no accident record numerous vehicle collisions have been witnessed
- Occupants with children will be unable to walk to the nearest playgrounds or playing fields as you could not walk with children down the busy, narrow and often overgrown footpath leading to Boughton
- There is only one local bus service which runs hourly until 6pm Monday to Friday which is under the threat of closure
- English Rural should look further into a site that achieves their goals
- The site is referred to as being the only one available within the village, this however does not make it a suitable and sustainable site for the young or old of the village and those with disabilities
- Single infill dwellings in the village envelope would have less impact
- Occupiers should be incorporated within the community rather than being stuck out on a limb
- A more modest proposal would best meet local needs and be welcomed and supported by residents of the parish
- There are no amenities in this small hamlet with occupants having to walk on unlit country lanes to reach Hernhill or Boughton
- It is questionable whether the housing is any more affordable than rented accommodation in nearby towns with more facilities
- Really affordable homes are council homes. Eco council homes would be a progressive solution
- The lane floods in two places
- The orchard at the back of the development gets sprayed every week in the growing season with weed killer which will affect new residents
- The proposal will destroy wonderful views, look out of place, and will not become available to anyone in our parish as they will not meet the requirements set out by the Swale Council points scheme
- The proposed site is on green belt agricultural land and its loss will alter the character of the area which is predominantly and historically fruit farming
- The area is prime agricultural growing land for fruit production and is part of the Hernhill and Boughton Fruit Belt as defined by the Swale Landscape Character Assessment
- The proposed site is immediately opposite a conservation area which will significantly alter the character and outlook
- When only 2.3% of the entire Borough is designated as a conservation area, why make a decision to blight one of them

- The development will affect the setting of listed properties, altering the architectural design and historical nature of the area and does not respect the listed properties in terms of massing and alignment
- The first view when driving into the village will be of the modern housing
- Brickwork should be in red stocks in Flemish bond
- Roof tiles should be natural slate or second hand clay tiles
- Whilst the developers claim that the design is in keeping with other properties in Staplestreet the overall build does not reflect materials such as Kent peg tiles
- The density of this proposal will greatly overshadow the existing housing especially as it has an elevated position
- The reduction in height of the hedging may affect the bats that have been witnessed there as well as birds, butterflies and insects
- The hedge lined verges of Staplestreet have been characteristic of the conservation area since photographic records began
- Due to the reduction of hedging and higher land the houses will overlook our property
- A development of this nature for local needs must have local support; it does not
- No consideration appears to have been given to land located at Dargate, The Fostall or Waterham
- The housing needs survey was conducted in 2015 and was misleading
- Public meetings were not advertised properly
- Parishioners feel let down by the Parish Council
- Parishioners were concerned by the lack of consultation with the community and delivered their own questionnaire to every household in the Parish
- The questions were openly shared with the Parish Council in 2018 who agreed to take the results into consideration, however these were later dismissed
- An offer of funding a new and unbiased survey of Parishioners was rejected
- Concerns of Parishioners were not taken into consideration at meetings
- Due to the failings of the Parish Council any recommendations from them in support of this planning process should be dismissed

A letter from a local resident co-ordinating a resident group of 25 households (The Hernhill Village Conservation Society) has been received and can be summarised as follows - points already raised in the local objections above have not been included:

- The Parish Council failed to engage and communicate with the community
- Concern about the lack of consultation lead to residents initiated their own questionnaire along with a petition of views - 146 people signed the petition, 144 against and 2 for it
- Out of 300 questionnaires delivered 62 responses were received
- 85% believed that Staplestreet was not the appropriate location
- 81% did not want to see affordable housing in just one location
- 63% wanted the homes integrated at various sites within the Parish
- At the Parish Council meeting to progress the scheme, the Chairman refused residents the opportunity to speak before the vote
- The 2015 Housing Needs Survey only gave a mandate to consult the community further and explore options

- The Parish Council has asserted that the development is important for families, young people and to stop the village dying, however both the 2015 and 2019 need surveys do not show even a majority representation of young people interested
- The 2019 survey only invited replies from potential applicants and shows most are in excess of 50, with only one family registering an interest
- The majority of respondents desired bungalows but yet only one affordable unit is a bungalow, thereby not reflecting the need or demographic on which this application is based
- In excess of 120 social houses are being built with supportive amenities towards Faversham
- The development will exacerbate water shedding and continually erode the natural banks nearby and further down Staplestreet causing further traffic hazards
- The site has fantastic open views towards the Thames estuary and the Isle of Sheppey which is not only appreciated by local residents but ramblers, cyclists and visitors that will be lost with the proposed build
- The introduction of a prominent line of properties will also destroy the traditional Kentish backdrop towards Boughton and Perry Wood
- Plots 1 and 2 now propose detached garages which will increase the building number profile and reduce gaps between buildings
- The access footpath to a refuge collection point will introduce an access alleyway dropping directly onto a derestricted narrow road with no footpath
- Plots 1 and 2 will overshadow Victoria Cottage opposite
- Tandem parking is not acceptable
- Plots 4 and 5 should have a hipped roof to soften its impact upon the streetscene
- Plots 7 and 8 should have traditional clay tile hanging to the 1<sup>st</sup> floor in keeping with the cottages and detached house opposite
- Developments of this nature should be progressed with sensitivity to provide a long term legacy for a village or hamlet

A letter from KH Town Planning on behalf of local residents comprising the Hernhill Village Conservation Society was submitted and can be summarised as follows:

- The Parish Council have not provided a strong community role
- No specific public meetings or consultations have been arranged by the Parish Council
- A lack of openness and transparency has meant that Freedom of Information requests have had to be made to obtain key information
- There is limited detailed consideration of the arguments for and against development and the impression given is that the applicant expects the application to find favour with the Borough Council and be approved
- The Design and Access Statement is limited and is clear that the site selection, number/form of units and the layout are all dictated by the applicant's set requirements with little or no compromise
- No acknowledgement has been given to the statutory duty and policy requirement to consider the impact on the conservation area and its setting

- The Transport Statement is silent on whether the proposals are a sustainable form of development having regard to the sites location, isolated position and the lack of immediate community facilities
- The site does not constitute a sustainable form of development and is contrary to both established national and local planning policies regarding development in the countryside
- The site does not lie within or adjacent to a defined village settlement but rather is in an area of open countryside
- An argument that a proposal involved local affordable housing does not necessarily override other planning considerations
- The information submitted with the application indicates that a total of eight sites were identified and considered in 2017. Of these, six were considered to have potential. Of the six sites, four were in more central locations, closer to facilities which exist in the parish
- This site was the most remote site identified from the centre/facilities
- The site identification process was carried out three years ago and has not been revisited
- An up to date process could establish other sites that are now possibilities and available
- The applicants case is that there is a housing need for 11 householders, however there is only 6 units proposed therefore the need identified by the applicants will not be completely met by the development
- The proposal does not accord with Local Plan policies ST3 or DM9
- The proposal has not been justified by the application information and evidence
- No open viability appraisal has been submitted to demonstrate why market housing has been included, or justify the number/size and type of unit
- No legal obligation has been submitted to demonstrate how the occupation and management of the development will be controlled to ensure long term retention of the housing for local needs
- The development would represent a crude encroachment into the field, open countryside and natural landscape
- The detailed design and appearance of the units is not unique to the vernacular of the area
- The proposal is not appropriate to the surroundings and would not conserve the landscape or local environment contrary to policies CP4, DM9 and DM24 of the Local Plan
- The resulting impact on the character and amenities of the designated rural lane and removal of hedgerow are contrary to policies DM26 and DM29 of the Local Plan
- The proposal would harm the setting and views into and out of the Conservation Area contrary to national heritage planning policies and policies CP4, CP8 and DM33 of the Local Plan

6.2 Since the submission of new layout drawings and statements from the applicant and the Parish Council, four further objections have been received, stating that the applicant has chosen to note positives from the consultation exercise and ignore the many negative comments received, and further criticising the manner in which the applicant and the Parish Council have conducted the matter during the planning process.



- 6.3 I have also received two more recent letters; one suggesting that the intended provision for electric vehicle charging points is not yet clear, and raising concern about the likely impact of additional parking and traffic from the site, and about how construction vehicles will access the site. The other says that the amended plans as submitted show No. 5 Staple Street inaccurately on the location of a previous Cesspool and not where it actually is on the other side of the road next to No.4 which misleads the extent of the current built properties on the side of the road of the proposed development. The nearest residence is at Forge Farmhouse. The writer also suggests that English Rural's statement of community involvement fails to recognise that the majority of residents (local and otherwise) are opposed to the development on the current site, and that the applicant's comment that 57% of Rural parishioners supported a small development of affordable houses, adding that this information is taken from a previous survey when the site was unknown and not from a more recent survey that reveals the majority of parishioners do not support the current location.
- 6.4 I have conveyed the concerns of local residents to the applicant, who has responded with the following summarised points:

#### Site Search Process

This followed the usual protocol and was carried out by the Rural Housing enabler from Action with Communities in Rural Kent, in partnership with the Parish Council, before English Rural became involved in the project. It is not usual to include the wider community in the site search procedure and this process has been followed by Swale Borough Council and its Parish Councils in all the local needs schemes developed the Borough in the last 15 years.

The RHE report on this site selection process is included as a supporting document with our planning application. The Parish Council and the RHE identified possible sites in the Parish and the RHE wrote to Landowners to ask if they would be interested in putting their site forward. I understand that Swale Planning Officers were involved in providing comments as to the suitability of each site.

At the time English Rural was invited by the Parish Council to work with them, there were only two sites on the 'shortlist'; both in Staple Street. As both Swale and the Parish Council did not have a preference between the two sites, English Rural was asked to carry out a feasibility study on both. Site 3 has an overhead electricity cable crossing the site and a well in the corner of the front boundary. The land slopes away and the impact on the surrounding landscape would have been more significant than Site 5, which was eventually selected.

#### Consultation Process

There have been two independent housing needs surveys commissioned and supported by Hernhill Parish Council and Swale Borough Council. The first of these in August 2015, would be considered as the first consultation with the community, seeking local residents views and comments, whilst also identifying a need for affordable housing from local people.

Progress of the local needs housing project was discussed and duly minuted at Parish

Council meetings, and the first community consultation event was held on 15 March 2018. Despite comments to the contrary, the event was well publicised by posters around the Parish, on the village website and Parish Magazine. The objective of the event was to display the preliminary plans and seek comments and views from the community, as is the usual practice at an early stage of a project. On the day itself, 37 residents registered attendance; some of these lived opposite the site and were upset that they had not previously been aware of the project. This was unfortunate but it was pointed out that the project had been discussed at Parish Council meetings open to the public, with discussions noted in the minutes.

Following the event, English Rural had further meetings and discussions with the Parish Council and the newly formed Hernhill Village Conservation Society which we understand was established at that time by a local resident who lives opposite the site. We listened to the Society's concerns around the design of the properties and access to the site, with the result that the plans were significantly amended over a period of months. A further public consultation event was held on 9 April 2019. The event was again advertised by poster and the village website. 45 residents registered attendance for this event, so just eight more than the first event, from which we can perhaps conclude that the original event was adequately advertised.

#### The Parish Council

In our view the Parish Council has followed the acknowledged route for delivering local needs housing. Parish Councillors have played a proactive role in ensuring specific design comments have been discussed and taken on board by English Rural wherever possible.

English Rural was first invited by Hernhill Parish Council to work with them in early 2016 and it is true that the original Chair and Clerk resigned around two years ago, although we understand that this was due to ill health and not for the reasons stated in some of the comments on the planning portal. Last year three new Councillors were elected to fill vacancies on the Parish Council. All three Councillors are from Staple Street and had all previously objected to our proposals. Although the new Councillors have been required to 'Declare an Interest' when the local needs housing project has been discussed, they sought a formal dispensation to take part in the discussions and to vote; this was granted by the Parish Council.

Following the consultation period for our planning application, a Parish Council meeting was arranged for 24 March 2020 to discuss the application and take a formal vote. Unfortunately because of lockdown restrictions, that meeting had to be cancelled. On the advice of National Association of Local Councils, the Parish Council then arranged an 'email vote' for 14 April. This forthcoming vote was publicised on the PC website and local people were encouraged to send in their comments for consideration by Councillors before the vote deadline. As you are aware the outcome of that vote was 3-3 with one abstention and because the Chairman has the casting vote, the result was to support the planning application. We note from the planning portal that this was considered 'unfair' by some respondents, even though this procedure is legally permitted and forms part of Parish Council rules.

We understand that concerns had been raised about the legality of the 14 April vote and that the Parish Council was advised by the Kent Association of Local Councils, that the meeting should take place in 'public'. A Zoom meeting was therefore arranged for 5 May and publicised accordingly. I was invited to speak at this meeting, as were those objecting to the planning application. Following extensive discussions and other comments from members of the public, a vote was taken and the result was 4-3 to support the application. Understandably the three opposing Councillors were those who had previously declared an interest. I don't know which Councillor, who had previously abstained, now decided to vote in support, or what changed their mind.

### English Rural

English Rural is a not for profit, rural specialist housing association and also one of the leading advocates on affordable rural housing, with HRH Princess Anne as our Patron. As you may be aware, English Rural has been selected by Swale Borough Council as its preferred rural partner for the last 15 years and have 43 local needs homes in five villages in the Borough. Our unique approach involves forming a community-led local partnership to research, enable and deliver affordable homes. Our relationship with local partners such as Parish Councils, Rural Housing Enablers, Local Authorities, farmers and land-owners is crucial to our success. We are only ever invited in by a village and some areas have chosen to work with us multiple times over the years.

In conclusion, I appreciate there have been a significant number of objections submitted against the Parish Council regarding the transparency of the process. New local needs housing in rural areas is often an emotive subject and whilst we endeavour to engage with those objecting, there is often nothing that can be said or done that will change minds, apart from perhaps not building on a particular site. However as I say in my statement, experience has shown us that villages like Hernhill benefit significantly from retaining local households who would otherwise be priced out of their home community. Local people help to define and make a village what it is. Retaining local households, who often work locally or support local family networks, brings a broader social sustainability, *which helps to retain the very fabric of community life in rural areas*.

Members should note that the applicant's Site Search Summary; their Statement of Community Involvement, and a statement from the Parish Council are attached to this report as Appendices A, B and C.

The Parish Council has also recently submitted a detailed timeline of events leading up to the application from 2015 when the question of local needs housing was first raised, through the various Parish Council meetings and public events from 2016.

## **7. CONSULTATIONS**

- 7.1 Hernhill Parish Council raises no objection to the proposal, but a statement from the Parish Council is included as Appendix C to this report.
- 7.2 Kent Highways and Transportation originally commented on the following areas:
  - Accepting the proposed 2.4m x 50m visibility splays
  - Suggesting a change to the precise location of the site access

- Agreeing that trip generation would not significantly affect the highway network
- Agreeing that adequate parking provision was being made
- Suggesting less use of tandem parking spaces
- Querying the parking provision for units 7 and 8 (the flats)
- Suggesting electric vehicle charging provision and cycle storage
- Raising the safety of pedestrians in an environment where a pavement is not appropriate.

7.3 The applicant responded with revised site drawings showing revisions and information as follows:

- Access way lengthened, with parking spaces (for units 7 & 8) moved northwards from the access point
- An undertaking to provide electric vehicle charging points
- Sheds for private cycle storage

7.4 Following receipt of this drawings and information, Kent Highways is now satisfied that the additional information provided addresses the concerns raised in its previous response, subject to conditions to include the matters covered by some of the conditions recommended below.

## **8. APPRAISAL**

8.1 The main issues to consider in this case appear to be those of the principle of development; the impact on the character and setting of the Staplestreet conservation area; visual and residential amenity; highway safety; the loss of agricultural land; the suitability of the location; and the manner in which consultation and decision making was carried out by the applicant and the Parish Council. I will consider each of these in turn.

Principle of Development:

8.2 As noted above, the site is situated outside any built-up area boundary and adjacent to the Staplestreet conservation area. This is not an area where adopted Local Plan policies would usually support new residential development. However this proposal is for cross-funded rural exception affordable housing, where policy DM9 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 applies, making this a potential exception to normal rural restraint policies. The preamble to policy DM9 includes the following words;

*'The Council, together with rural housing partners, recognises that in order to tackle these challenges, there is a need to increase affordable housing within rural areas and that a flexible approach to meeting local housing need is required. There is national planning policy support for departing from the previous policy approach to restrict sites solely to affordable housing, to allow some unrestricted market homes for sale, including plots for sale for local self build. This should help both to increase affordable housing completions and to allow for more mixed and sustainable rural*

*communities. In turn, this will provide the right housing to support stronger communities and to sustain rural areas in ways that respects their character.'*

Policy DM9 states that planning permission for affordable housing to meet local needs in rural areas will be granted, provided that the proposal is in accordance with certain requirements. The present proposal is in accordance with those requirements, but to ensure that the properties remain available for local needs and to accept the inclusion of market housing a Section 106 Agreement will be necessary before any planning permission can be granted. As such, I consider the principle of development in this case to be acceptable.

The impact on the character and setting of the Staplestreet conservation area

- 8.3 The site is not within the conservation area, but I have had regard to the Council's statutory duty to consider the preservation or enhancement of its character. In my view the relevant test is set out in paragraph 196 of the NPPF where less than substantial harm must be weighed against any public benefit. In this case I see the limited harm to the character of the conservation area outweighed by the benefits of a scheme such as this, and I believe that the design and layout proposed goes as far as it reasonably can to compliment and enhance the character of the conservation area, not least in retaining the frontage hedgerow.

Visual and Residential Amenity:

- 8.4 The drawings submitted show a well-set out scheme, setting the development back from the road behind the frontage hedge, which will ensure minimum intrusion, whilst not isolating the new properties from those existing, thus allowing any potential new occupiers to be part of the established community. The retention of the frontage hedging in large part will also minimize the impact of the development on the character of the rural lane in accordance with the aims of policy DM26.
- 8.5 I am of the opinion that the layout and design of the proposed properties is also acceptable; being positioned in a linear fashion as found within existing properties at Staple Street, and of a design which, whilst not aping any particular style, is in a traditional style which will sit comfortably within the landscape. The use of vernacular materials here is also important, and I would contend that this development would appear as a well considered extension to the existing community.
- 8.6 The scale of the proposed buildings is also fairly modest. I note that residents living opposite are concerned over potential loss of views, but there is no right to a view under planning legislation. Whilst I understand the concerns raised by local residents, this is not a reason to refuse planning permission.

Highway safety:

- 8.7 I acknowledge the concerns raised by residents about access, parking and highway safety, but I have to set this against the expert advice of Kent Highways and Transportation. This advice has concluded that with refinements, the proposed development will not have a harmful effect on highway safety and convenience. As such,

taking this expert advice into consideration, I am not convinced that an additional eight dwellings will have an adverse effect on highway safety or the local road network.

Loss of Agricultural Land:

- 8.8 A number of local objectors have noted as a concern the loss of this agricultural land. A number have identified the land as 'Green Belt', but there is no Green Belt land within the Borough of Swale. In terms of loss of valuable agricultural land, I would contend that the area of land is fairly small, and its loss would not have a significantly detrimental effect in terms of agricultural use and productivity. I also note that the land behind the site will continue in agricultural use. As such, I am satisfied that the loss of the land for agricultural use will not be significant, and that the benefits of a scheme like this, which will almost inevitably result in loss of agricultural land wherever it might be realised, outweigh any harm in this regard.

The Suitability of the Location:

- 8.9 A number of local residents have noted that whilst they have no objection to the principle of the development, they are of the opinion that this particular site is unsuitable and that other sites should have been further explored. As is stated within the submitted site search details (see Appendix A), a number of sites were considered by the Parish Council, and this site was essentially the only one which was considered to be acceptable and where the landowner was agreeable to the act of selling the land. Whilst other sites were and have been considered, the application is for this particular site, and the Council must therefore consider whether or not this particular site is acceptable. The Council is not allowed to refuse this application on the basis that other sites (even if they were available) might be preferable; it must determine this application on its own merits.
- 8.10 This site, being located at the end of the existing settlement with existing properties opposite, means that the new properties would not be located out on a limb, or in an isolated position, but in a location whereby any potential occupiers would be part of the village community, enjoying the neighbourly qualities of the community and in turn making their own contribution to the community.

Consultation and conduct of the applicant and the Parish Council:

- 8.11 Some local residents have criticised the conduct of the applicant and the Parish Council in the bringing forward of this application. However, there are other avenues to deal with such concerns, and the matter before the Planning Committee is the merits of the planning application. In my view, the key question is whether or not the planning application has been brought forward in accordance with the criteria in policy DM9 as set out above, especially criteria 3 and 4. I consider that the way that the Parish Council has gone about the needs survey, site search and pre-application local consultation has been entirely in line with the expectations of the Borough Council, and that there is no reason for Members to give concerns over that process any significant weight. In terms of financial calculations, the applicant has taken a robust and established approach, and the proposal has been shown to be soundly based.

Other Matters:

- 8.12 I acknowledge the comments made with regard to service provision (electricity, water, etc.), but this is a small development but I consider that there is no reason to see this as an overriding problem. I would acknowledge that no location in Hernhill is ever going to be the most sustainable in the Borough, but I would argue that, in accordance with Policy DM9, it is as sustainable as it reasonably can be commensurate with available opportunities. The proposal must be seen for what it is, exception site rural housing, and to compare it to rejected proposals for open market housing which are not intended to meet a specific identified local housing need is to my mind wrong and misleading. The site search was confined to the parish, where all possibilities involve unlit rural lanes. The search considered and discounted sites in far less suitable and sustainable locations, and in my view this location within easy reach of a public house, and within a mile of the church, the village hall, a convenience store, a post office, a petrol station and two primary schools, is actually quite well placed, and is acceptable for a scheme to provide affordable village housing as an exception to established rural settlement policy, using a tried and tested methodology.
- 8.13 Members will note the inclusion of Condition (3) below. Members have previously requested that a planning condition requiring a carbon emissions reduction of 50% above Part L of Building Regulations be attached to all new residential development. I have discussed this matter with the applicant, and requested that they accept that pre-commencement planning condition, but they have responded as follows:

*'Further to our conversation this morning regarding the suggested 50% improvement over Part L of the Building Regs. I have discussed with our architect who has checked the adopted local plan (July 2017) but could not find any reference to this requirement. There also appears to be no relevant supplementary planning guidance on this either?*

*Our Energy Consultant has confirmed that, particularly at this very late stage, such an uplift is actually unachievable. A 50% improvement is in excess of even the London Plan requirements. To create such an improvement would have to have been considered at the outset of the project as there would need to be a significant redesign of the dwellings, with a far thicker external envelope, possibly a reorientation of the dwellings and changes to external openings to maximise solar gain. Changes in the footprint could also have a detrimental impact on the site layout. These measures would also need to be paired with energy efficient technologies such as photovoltaic panels, mechanical ventilation systems and the like. This comes at a significant economic cost that would severely impact on the financial viability of this local needs scheme. It would also likely result in a detrimental impact on the appearance of the development, something that would not appeal to those who oppose the scheme and not something that we would wish to promote ourselves.*

*Our developments already exceed Building Regulations levels via the 'fabric first' approach we employ. We include very good standards of insulation and triple glazing throughout. We are willing to consider providing air source heat pumps to all properties, should these be financially viable and internal space permit.*

*I hope the Planning Committee can appreciate why we are unable to accept this suggested planning condition but be reassured that energy efficiency of the development will exceed Building Regulations whilst also providing affordable homes for local people in perpetuity.'*

The applicant has also provided the following information;

*'It has always been English Rural's ethos to take a Fabric First approach to each development, by using a Fabric First approach ERHA can achieve big improvements in energy performance over that required by Building Regulations and reduce the amount of energy needed/wasted to heat the homes. This ethos includes;*

- Plenty of insulation: walls, floors and roofs are insulated to a standard significantly in excess of that required by Building Regulations*
  - High performance doors and windows: double or triple glazed, with minimal thermal breaks, filled with low-conductivity gas and/or having a low-E coating to minimise radiant heat loss from inside to out*
  - Excellent airtightness and careful attention to reduce thermal bridging (ie at junctions of building elements where heat can 'leak out')*
  - Excellent internal air quality: simple, effective and almost maintenance- free heat recovery ventilation fans in kitchens and bathrooms help to provide continuous all year-round ventilation and recover heat from the air normally lost through extraction*
- A "fabric-first" approach is a tried and tested way to reduce a dwelling's energy efficiency and CO2 emissions. This approach allows the building to do the work rather than relying solely on Renewable technologies to reduce the CO2 emissions.'*

These figures show the applicant's anticipated energy efficiency standards:

<b>Proposed Average U-values</b>		<b>Minimum Standards</b>	<b>% Improvement over Part L</b>
Floor –	0.11w/m2K	0.25w/m2K	56%
Walls –	0.18w/m2K	0.30w/m2K	40%
Roof –	0.11w/m2K	0.20w/m2K	45%
Windows –	1.2w/m2K	2.0w/m2K	40%
Air Permeability -	5.0m <sup>3</sup> /hm <sup>2</sup>	10. 0m <sup>3</sup> /hm <sup>2</sup>	50%

8.14 Without the applicant's agreement The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 do not permit the Council to impose the new style 50% carbon emission reduction condition. According to The Government's published National Planning Practice Guidance, the Council's options in this situation are to:

- grant planning permission without the pre-commencement condition,



- seek written agreement to an alternative pre-commencement condition, or
- refuse to grant permission (if it considers that the disputed pre-commencement condition is necessary to make the development acceptable in planning terms).

A further alternative is not to seek to impose a pre-commencement condition at all, and I consider that this would be the best solution in this case to avoid loss of what I see as a very welcome development. I have therefore recommended a suitable alternative condition, and an informative, to secure the best possible sustainable construction specification commensurate with the applicant's intentions.

## **9. CONCLUSION**

- 9.1 This development would provide six houses for affordable rent to local people and has been evolved in accordance with the requirements of a specific Local Plan policy which is intended to assist such provision where normal market housing would not be permitted. Members may recall a very similar recent application for six affordable houses, cross-funded by two market bungalows on Leaveland Corner (17/506151/FULL), which was approved for this reason.
- 9.2 I consider that the development as proposed is of a suitable design and layout, is wholly in accordance with the most pertinent Local Plan policy, and will bring a much welcome resource to the village.

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

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

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.

Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the European site interest, Natural England (NE) advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations

63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.

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

NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required in this instance.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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.

This should be secured once the decision is made to grant planning permission but before the decision notice is issued.

- 10. RECOMMENDATION - GRANT** Subject to the following conditions, and the signing of a Section 106 Agreement and a SAMMS tariff payment:

**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 permitted shall be carried out in complete accordance

with the following plans:

2585-101 Rev SK-A; 2585-102; 2585-103; 2585-104; 2585-105; 2585-106; 2585-107; 2585-108 Rev A and 10354-1801 Rev P1.

Reason: For the avoidance of doubt, and in the interests of proper planning,

- (3) No development beyond the construction of foundations shall take place until details have been submitted to and approved by the Local Planning Authority, 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. The approved details shall be incorporated into the development.

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

- (4) The dwellings hereby permitted shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and no dwelling hereby permitted shall not 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

- (5) Prior to the occupation of any dwelling hereby permitted it shall be provided with an electric vehicle charging point in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of promoting sustainable forms of transport.

- (6) All external boarding shall be in timber featheredged weatherboarding, and no development beyond the construction of foundations shall take place until details in the form of samples of external finishing materials, including external boarding, to be used in the construction of the development hereby approved have been submitted to and approved by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area.

- (7) No development beyond the construction of foundations shall take place until detailed drawings at a suggested scale of 1:5 of all new external joinery work and fittings together with sections through glazing bars, frames and mouldings have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area.

- (8) No occupation of any dwelling hereby permitted shall commence until all planting, seeding and turfing specified in the approved landscape details shown on approved drawing 20-02-11 have been completed, unless an alternative

implementation period has first been approved by the Local Planning Authority.

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

- (9) 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.

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

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (11) No development beyond the construction of foundations shall take place until a Construction Management Plan shall have been submitted to and approved in writing by the Local Planning Authority, which shall include the following:
- (a) Parking and turning areas for construction and delivery vehicles and site personnel
  - (b) Timing of deliveries
  - (c) Provision of wheel washing facilities

Reason: In the interests of the amenities of the area and highway safety and convenience.

- (12) The new access road shown on approved drawing 2585-101 Rev SK-A shall be completed before the first occupation of any dwelling hereby permitted.

Reason: In the interests of the amenities of the area and highway safety and convenience.

- (13) The new access road shall incorporate measures to prevent the discharge of surface water onto the highway.

Reason: In the interests of highway safety and convenience.

- (14) The new access road shall incorporate a bound surface for the first 5 metres from the edge of the highway.

Reason: In the interests of highway safety and convenience.

- (15) Prior to the first occupation of any dwelling hereby permitted the visibility splays shown on approved drawing ref 2585-101 Rev SK-A shall be provided with no obstruction over 0.9 metres above carriageway level within the splays, and thereafter these areas shall permanently be kept clear of any such obstruction.

Reason: In the interests of highway safety and convenience.

- (16) The areas shown on the submitted drawing 2585-101 Rev SK-A as car parking spaces shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (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; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

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

- (17) The details shown on the submitted drawing 2585-108 Rev A as cycle storage shall be provided prior to occupation of the relevant dwelling.

Reason: In the interest of promoting sustainable forms of transport.

- (18) Prior to the first occupation of any dwelling hereby permitted pedestrian visibility splays of 2 m by 2m on either side of the refuse collection point, with no obstructions over 0.6m above carriageway level within the splays, and thereafter these areas shall permanently be kept clear of any such obstruction.

Reason: In the interests of highway safety and convenience.

### **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.

In this case, 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) This permission has only been granted after receipt of a financial contribution to the Strategic Access Management and Monitoring Strategy in respect of the nearby Special Protection Area.
- (2) In relation to condition (3) the Local Planning Authority expects at least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended). Examples of how the Council suggests that such a carbon reduction target can most easily be achieved is through the improvement of the U values and airtightness specification of the development, combined with the use of a heat pump (air source or ground source) instead of a conventional gas boiler, combined with a small solar thermal or photo voltaic installation. Whilst this may have additional initial costs we consider that at least some of this would

be off-set by a higher property value, as has been demonstrated on homes that achieve zero carbon.

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.

