

3.2 REFERENCE NO - 20/501475/FULL		
APPLICATION PROPOSAL Erection of 20No. residential dwellings and associated car parking, hardstanding, landscaping and open spaces, infrastructure including SuDs and earthworks accessed from the existing junction serving Eden Meadow from the A2 High Street.		
ADDRESS Land To The Rear Of Eden Meadow Newington Kent ME9 7JH		
RECOMMENDATION Refusal		
SUMMARY OF REASONS FOR REFUSAL When assessed against para 11 of the NPPF, it is considered that the adverse impacts in terms of conflict with the environmental objectives (from localised landscape and visual harm; harm to the setting of a Grade II listed building; and development of undeveloped land) of the Framework significantly and demonstrably outweigh the benefits of the proposal, even when the extent of the housing deficit is considered. As such, the proposal would fail to constitute sustainable development and it is recommended that the application is refused.		
REASON FOR REFERRAL TO COMMITTEE Cllr Palmer has called the application into committee, noting that the application should be refused for the following reasons; 1) Potential increase in pollution, no evidence of how mitigation will improve air quality 2) Harm to local heritage asset (Grade II listed Ellens Place) 3) Localised landscape and visual harm arising from the development which encroaches into open countryside 4) Outside the built-up area boundary 5) Lack of sustainability		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Newington	APPLICANT Esquire Developments AGENT
DECISION DUE DATE 29/06/20	PUBLICITY EXPIRY DATE 02/06/21	

Planning History

None at the application site

16/505861/OUT (Site to the north (1-9 Eden Meadow, ME9 7JH)

Outline Application with access being sought for erection of 9 dwellings with access, garaging, parking provision and other associated works.

Non-Determination Appeal Allowed.

1. DESCRIPTION OF SITE

1.1 The application site is situated to the south of the High Street (A2), and to the south of a recently built residential development of 9 dwellings at 1-9 Eden Meadow. The site is situated to the east of Newington, outside the built up area boundary. At its closest point the application site is situated approximately 53m from the built up area boundary (birds eye distance between the north-west corner of the site and 152 High Street) or

approximately 200m (measured from the north of the site, via Eden Meadow and High Street).

- 1.2 The site is roughly rectangular in shape, with a small off-shoot projecting to the south in the south-eastern part of the site and extends to approximately 1.53ha (3.7 Acres) in area.
- 1.3 The site comprises an open field, and is noted to be recently used as a paddock. There are mature trees along some of the boundaries, but none within the majority of the site. The site is currently accessed via a gate from the Eden Meadow development.
- 1.4 In terms of levels, there is a rise in levels to south-east, and the land rises more steeply to the eastern side than to the west with the western portion forming part of a shallow spur. The topographical survey shows the north boundary of the site at circa +32.50m AOD with the southern boundary circa +37.50m AOD (the small parcel of land that sticks out in the southeast corner rises to circa +39m AOD). The approximate distance from the northern boundary to the southern boundary is 106m meaning that there is an approximate gradient of 1:20 across the site.
- 1.5 To the north are existing residential dwellings including numbers 4 and 5 Eden Meadow which are separated from the site by close boarded fencing; Ellens Place which comprises a Grade II listed residential dwelling, and dog breeders/kennels) which is separated from the site by post and rail/wire fencing; and to the rear of 172a High Street (DJC Cars – car dealers and Beadle Services – vehicle repair services) which is separated from the site by post and rail/wire fencing, and the neighbouring property has a secure vehicle compound with 1.8m metal palisade fencing. The northern boundary line is staggered in relation to these neighbouring properties to the north.
- 1.6 To the west are open fields and the boundary comprises existing hedging and trees; to the south are equestrian paddocks and the boundary is a post and rail/wire fencing; to the east is a field beyond which lies an area of trees/hedges and the existing boundary is a post and rail/wire fencing and trees.
- 1.7 There is, as noted above, a Grade II listed building known as Ellens Place (numbers 5 & 6 Boyces Hill) to the north of the site (approximately 85m from the northern site boundary)
- 1.8 There are existing public rights of way within the local area, including PROW ZR65 to the south of the site; ZR66a to the east; ZR61 to the west and ZR59 to the north.

2. PROPOSAL

- 2.1 The application seeks permission for the erection of 20No. residential dwellings and associated car parking, hardstanding, landscaping and open spaces, infrastructure including SuDs and earthworks.
- 2.2 The proposed residential development would be accessed from the existing junction serving Eden Meadow from the A2 High Street, and would extend the road access from between nos. 4 and 5 Eden Meadow southwards into the site.

- 2.3 The layout of the proposal would broadly follow two perimeter blocks with dwellings fronting out onto the site boundaries, and into a central rural/tertiary lane. There would be circular perimeter loop road around the edge of the dwellings, and circular pedestrian footpath around the edges of the site. Informal and natural play spaces are proposed adjacent to the footpaths around the site. The proposals would result in a density of 13 dwellings per hectare.
- 2.4 In terms of the site boundaries, the proposed development has been designed to incorporate landscape buffer zones on the eastern, southern, western and part of the northern boundaries with the following depths;
- Eastern; 15m landscape buffer, and the built form is pulled back a minimum of 26.3m from this boundary
 - Southern; 15m landscape buffer, and the built form is pulled back a minimum of 19.8m from this boundary
 - Western and north-western: 5m landscape buffer to ensure the retention of existing vegetation and can be reinforced with additional planting where required. The buffer area in the north-western part of the site will help provide screening between the existing commercial units and the proposed residential dwellings.
 - Northern-eastern: 10-15m landscape buffer, and the built form is pulled back a minimum of 17.5m from this boundary
- 2.5 The housing mix comprises a mix of 2, 3, 4 and 5 bedroom dwellings, including;
- 1 x 2 bed (4 person) dwelling at plot 2;
 - 12 x 3 bed (4 person) dwellings at plots 1, 6, 7, 8, 10, 11, 12, 13, 14, 15, 18 and 20;
 - 5 x 4 bed (5/7 person) dwellings at plots 3, 4, 5, 17 and 19
 - 2 x 5 bed (8 person) dwellings at plots 9 and 16.
- 2.6 In terms of appearance, the proposed dwellings are described as contemporary interpretation of the traditional Kentish vernacular, to complement the local area and would be of a similar design and appearance to the existing Eden Meadow development. The new unit types and detailing are noted to respond to the more rural setting of the site, and would incorporate more black weatherboarding and tiled canopies over front doors. In terms of materials - it is proposed to use a mixture of brick, with black weatherboarding, white weatherboarding and tile hanging to the elevations. Roof coverings are proposed to consist of clay and slate roof tiles, interspersed throughout the development, and the roof form comprises a mix of different roof types including half-hipped, gable, and gable/hipped roof forms. The proposed designs and materials are to be interspersed throughout the site to provide variation and differentiation to create interest and variety in the street scene
- 2.7 Off-site highway works are proposed to provide a 30mph village gateway feature to the east of the existing Eden Meadow access on the A2 (approximately 110m to the east, outside the property called Solomons Seal).

- 2.8 The application proposal has been amended through the application process. The original submission was for the erection of 40 dwellings on the site; and was amended in September 2020 reducing the number of dwellings to 35, and then subsequently in May 2021 to the 20 dwellings now proposed.

3. SUMMARY INFORMATION

	Proposed
Site Area (ha)	1.53 ha
No. of Storeys	2
Parking Spaces	Total: 66 spaces comprising; <ul style="list-style-type: none"> - 38 allocated parking spaces - 22 car barn/port spaces - 6 visitor parking spaces
No. of Residential Units	20
Housing Mix	1 x 2 bed (4 person) 12 x 3 bed (4 person) 5 x 4 bed (5/7 person) 2 x 5 bed (8 person)
No. of Affordable Units	Off-site affordable housing via a commuted sum of £704,119.60.

4. PLANNING CONSTRAINTS

- 4.1 The site is located outside the built up area boundary of Newington and is therefore within the open countryside.
- 4.2 The site is within an area of potential archaeological importance.
- 4.3 There is a Grade II listed building known as Ellens Place (numbers 5 & 6 Boyces Hill) to the north of the site (approximately 85m from the northern site boundary).

5. POLICY AND CONSIDERATIONS

- 5.1 National Planning Policy Framework (NPPF) 2021: Paras 8 (Three dimensions of sustainable development); 10, 11, 12 (Presumption in favour of sustainable development); 47 (Determining applications); 60, 63, 65, (Delivering a sufficient supply of homes); 80 (Rural housing); 81 (Building a strong, competitive economy); 93 (Promoting healthy and safe communities); 104 (Promoting sustainable transport); 112, 113 (Considering development proposals); 119 (Making effective use of land); 126, 130, 131, 134 (Achieving well-designed places); 152, 153 (Meeting the challenge of climate change, flooding and coastal change); 167, 169 (Planning and flood risk); 174 Conserving and enhancing the natural environment; 180, 182 (Habitats and biodiversity); 185 (Ground conditions and pollution), 186 (Air Quality), 194, 195, 197, 199, 202 (Conserving and enhancing the historic environment)
- 5.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017 (adopted): Policies ST1 (sustainable development), ST2 (development targets for jobs and homes), ST3 (Swale settlement strategy), ST5 (Sittingbourne strategy), CP1 (strong, competitive economy), CP2 (sustainable transport), CP4 (good design), CP6 (community facilities), CP7

(Conserving and enhancing the natural environment); CP8 (Conserving and enhancing the historic environment) DM3 (rural economy), DM6 (managing transport impact), DM7 (vehicle parking), DM8 (affordable housing), DM14 (general criteria), DM17 (open space, sports and recreation provision), DM19 (sustainable design and construction), DM21 (water, flooding, and drainage), DM24 (conserving and enhancing valued landscapes), DM28 (biodiversity and geological conservation), DM29 (woodland, trees and hedges), DM31 (agricultural land), and DM32 (development involving listed buildings) of the adopted Swale Borough Local plan 2017 are relevant.

- 5.3 ST3 sets out the Swale Settlement Strategy, which is a hierarchy of the locations at which residential development should be located. The current application site sits within the lowest tier – locations within the open countryside – where *“development will not be permitted, unless supported by national planning policy and able to demonstrate that 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.”*

5.4 Swale Landscape Character and Biodiversity Appraisal (Jacobs, 2011)

The application site is located within the Newington Arable Farmlands character area. Please refer to para 9.23 in the appraisal section.

5.5 Swale Vehicle Parking Standards SPD 2020

- 5.6 This Supplementary Planning Document provides advisory guidance in respect of car parking provision and recommends parking for rural locations as follows; 2 spaces per unit for 1 & 2 bed houses; 3+ spaces per unit for 3 bed houses; and 3+ spaces per unit for 4+ bed houses. The guidance also seeks 0.2 spaces per unit for visitor parking.

5.7 Developer Contributions SPD.

5.8 Swale Landscape Sensitivity Assessment (2019) (*Part of the Local Plan Review Evidence Base*)

5.9 The Setting of Heritage Assets – Historic Environment Good Practice Advice in Planning Note 3 (Second Edition), Historic England (2017)

6. LOCAL REPRESENTATIONS

- 6.1 A planning notice was advertised in the local press on 01.10.20 and 15.04.21 and a site notice was displayed at the site on 09.04.20

- 6.2 68 letters of representations objecting to the development were received following public consultation. The comments are summarised below;

Original scheme – 40 dwellings (29 letters of representation)

- Application is a greenfield site (greenbelt land should be protected)
- Should develop brownfield sites instead
- Application site is not in the Local Plan and is inappropriate development
- Newington is a less sustainable settlement / Newington is unsustainable
- Newington has exceeded its growth target for housing and 17 year housing allocation

- Countryside location and outside the defined built-up boundaries of Newington
- The site is not adjacent to the settlement boundary
- Unsustainable addition for the village
- Proposed phase 2 of Eden Meadow is not in keeping with existing 9 dwellings at Eden Meadow
- Harmful impact on the countryside gap to the south side of Newington
- Development would start a consolidation of ribbon development south of the A2 and open up the south of the A2 to development.
- Development would be contrary to the built form of Newington and would be out of character with the settlement pattern
- Harmful visual impact to locality and from public footpaths (ZR65 and ZR66/1)
- Significant adverse impact on the landscape character, quality and value of the rural setting.
- Harmful impact on the character of the historic village
- The site is Best and Most Versatile Agricultural land, contrary to policy DM31; concerned about piecemeal development
- Harm to residential amenity – overshadowing
- Harm to residential amenity – loss of privacy and overlooking
- Harm to residential amenity – the submitted plans do not accurately show the footprint of 4 Eden Meadow which has an extension (orangery) under 18/503092/NMAMD and proposed plot 1 is too close
- Disruption during building and construction – from construction traffic, site office buildings, utilities fixed to existing fence line
- Insufficient parking provision
- Lack of parking in Eden Meadow results in cars parked on the pavement, which would block access and lead to insufficient width for cars to pass safely
- Increased vehicle movements, traffic and congestion
- Existing traffic generation at Eden Meadow exceeds expected levels
- Eden Meadow is often used by vehicles to turn around
- Existing access is not sufficient for existing residents and additional dwellings
- Access should not be taken through Eden Meadow
- The access is close to the Permission entrance
- Safety risk for pedestrians from traffic including construction traffic travelling through existing Eden Meadow site
- Developer claims re walking distance to school for children; access to the cycle network are inaccurate
- A2 is unsuitable to walk along due to heavy traffic with narrow pavements.
- Vehicles exceed speed limit along A2
- Poor public transport links – trains, bus. Limited parking at Newington train station
- Harmful impact to listed buildings in Newington
- Damage to listed buildings from HGV and heavy vehicle vibrations
- Ecology –local wildlife is present in the area including hedgehogs, woodpeckers, birds of prey, lizards, dormice, and bats and will be affected by the proposal
- Masterplan indicates there could be 170 dwellings
- Impact on infrastructure; GP surgery is oversubscribed; primary school is oversubscribed;

- Lack of facilities in Newington; only has a shared pharmacy/post office, small GP surgery with a shared Doctor with Kemsley, one convenience store, a primary school and one church. Train station is unmanned and has no disabled or pushchair access. One pub and two take-aways. Village Hall; recreation ground consisting of one football pitch and playground in need of modernisation
- Increase in pollution (noise and air pollution)
- Harmful air quality impact resulting in likely harmful impact to human health
- Cumulative air quality impact not understood or addressed
- Electric vehicles will not be effective in tackling pollution for a number of years
- Archaeology impact needs to be understood
- Application poorly time as submitted under national lockdown due to Covid-19
- Agree with objections from Newington Parish Council
- Pond Farm application rejected on the following grounds; Pollution levels (Nitrogen Dioxide) levels in Newington exceeds the government guidelines; loss of a strategic gap; harmful to landscape; loss of farmland
- Drainage concerns – the east end of Newington High Street suffers drainage problems

Amended scheme – 35 dwellings (additional issues raised) (8 letters of representation)

- Little employment offer in the area resulting in residents travelling
- Reduction in five houses does not change objections or make the development acceptable
- Very little change in the amended scheme; cosmetic changes
- Proposed native tree species are not suitable for locality

Further Amended scheme – 20 dwellings (additional issues raised) (31 letters of representation)

- Semi-detached dwelling built directly behind existing fence (of no. 4 Eden Meadow), understand there should be 22m from rear of the property
- Proposals show a 15m buffer to east/southern boundaries and 5m buffer to the west boundary but no buffer is proposed next to the northern boundary. The natural buffer should be extended around all the site boundaries
- There is another application for 20 dwellings in close proximity to this application with a direct access onto the A2, raising highway safety concerns. (application ref 20/505059/FULL – Willow Trees, pending consideration)
- National Highways (formely Highways England) are imposing a Grampian condition on development, preventing occupation until such time as M2J5 AND A249 Grovehurst junctions are upgraded & open to the public. As such this application is speculative, and undeliverable in terms of highway safety.
- Swale Borough Council have declared a climate emergency – building more houses with additional cars and pollutions in this AQMA is counter to that pledge
- Not meeting local housing need – including the need for genuinely affordable and social housing; homes for elderly or disabled; or starter homes
- Harmful impact to mental health
- The development of any housing on this site is unsuitable
- Flooding of the A2 is possible

- Railway line embankment in Newington collapsed
 - Sequentially reducing the number of units to attempt to gain planning permission.
- 6.3 No letters of representations supporting the development were received following public consultation.
- 6.4 Other matters raised that are not material planning considerations:
- Proposal will lower market values of existing housing which sold as a small exclusive luxury development
 - Proposal will result in a loss of view across a meadow/ open field
 - Developer (Esquire) did not indicate development plans on this field at the time of purchase for Eden Meadow
 - Human rights protected by Human Rights Act 1998 including article 8 – the right to respect for your family, private life and home.

7. CONSULTATIONS

- 7.1 **Newington Parish Council Object (15/04/20; 19/10/20; 19/04/21, 28/05/21, and 20/12/21) for the following summarised reasons and full comments are included at Appendix 1-5.**

Local Plan and National Policy Context

- The site was not included in the Local Plan allocations and is therefore a premature application. The site was rejected in the call for sites prior to the adoption of the 2017 Local Plan, and recently in the 'call for sites' for the Strategic Housing Land
- Availability Assessment in October 2020 (SHL Site Ref. 18/076)
- The original refusal reasons for 16/505861/OUT, for this site (9 dwellings) are applicable to this application.
- Notes application ref 16/505861/OUT was allowed at appeal, and the appeal decision identified landscape harm from the proposal.
- Swale has a 4.6 year housing supply and consider this is close enough for the harm from this proposed development to outweigh the need.
- Existing development in Newington has fulfilled its targets in the Local Plan (Newington was allocated a growth rate of 1.3%). 180 properties have already been built between 2014-present.
- Does not meet the definition of sustainable development
- The land is not a 'brownfield' site. It is 'Best and most versatile' agricultural land that has been left idle. Contrary to Policy DM31 – Agricultural Land

Visual and Landscape Impact

- Loss of visual amenity from public footpaths (ZR65 and ZR67/1), and Boyces Hill footpath, the Cranbrook Lane footpath, from Callaways Lane, which leads to Cranbrook and Cromas Woods (known locally as Monkey Island), is near to listed buildings and adjacent to the Newington Manor conservation area.
- Harmful landscape Impact
- The application would be contrary to the guidance in the Swale Sensitivity Assessment 2019 for Area NN2 south-east of Newington which seeks; *'Maintain and enhance the well-integrated edges of the settlement so that development is not generally visible from the surrounding rural landscape; and • Maintain Newington as a distinct settlement and avoid the visual impression of a continuous suburban*

- *character linking Sittingbourne, Keycol and Newington*;
- Cranbrook Wood is priority habitat deciduous woodland'... acts as an important rural gap between Sittingbourne and Newington
- Application would have an overbearing and detrimental effect on the village (this is applicable for the various schemes proposed at 40, 35 and 20 dwellings).
- Concerns about wider development from this site into neighbouring fields. Esquire Development in public meetings have outlined they owned or had options on neighbouring land with additional access to the A2 for a larger development.

Heritage

- Detrimental effect on grade II listed Ellens Place, and refers to comments by the SBC Conservation Officer objecting to the proposal

Air Quality

- Detrimental to the health of residents in Newington in terms of air pollution. The cumulative effect of existing development (such as 124 homes at Watling Place) increases problems of air quality in Newington.
- The cumulative effect on air quality has not been suitably addressed,
- The Pond Farm appeal (APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140) was refused due to an adverse impact on air quality (*'even after taking into account the proposed mitigation measures, the appeal proposals would have an adverse effect in air quality, particularly in the Newington and Rainham AQMAs'*)
- Air quality impact on Medway has not been considered
- Air quality assessment undertaken during periods when there were less vehicle movements than typical due to emergency gasworks; road closures and covid-19.
- No significant mitigation measures proposed in the Air Quality assessment. The Lustre report does not demonstrate how its proposed contribution would mitigate against the likely harm to human health through increased pollution
- The Lustre report does not include all the 10 diffusion tubes (NO₂) in Newington and has not considered the impact on emissions of PM_{2.5}
- MidKent Environmental Services has recently invested in a new monitoring station, capable of measuring PM_{2.5} particles as well as NO₂, within the village. This surely shows that concerns about pollution in Newington remain
- There are concerns about air pollution to the east and west of this proposed development, currently in open countryside, with AQMAs 300 yards and 2 miles west and a new AQMA 1 mile to the east at Keycol Hill.
- Electric vehicle charging points – benefits would not be felt for a number of years
- Suggested air quality mitigation measures (such as welcome pack or car club) would not benefit the health of existing residents, nor improve air quality locally.
- 20/12/21: Newington Parish Council have commissioned an independent report regarding air quality, examining the submitted air quality report submitted as part of the application.

Highways, access, parking and public transport

- The A2 is busy, dangerous and polluted which discourages walking
- Public transport infrastructure is poor with a limited train and bus service, and no buses in the evening or on Sunday. Train services to London are hourly rather than two-hourly as noted in the Transport Statement; bus services are roughly hourly with direct routes alternating with services which are via other local villages.
- Access problems with a new, dangerous junction with the A2 almost opposite the new junction for 123 Persimmon homes at Watling Place.
- Current residents in Eden Meadow park on the highway of Eden Meadow restricting width to allow two cars to pass each other

- Current Eden Meadow/A2 access is not suitable for the existing use and the proposed additional houses
- Eden Meadow did not have sufficient parking spaces provided, leading to over-spill onto the highway. Concerns under-allocation for this application site would exacerbate existing problems, and may lead to queuing traffic on the A2.
- Insufficient parking provision, and garages would be used for storage
- The Transport Statement suggests the village primary school is a 1,100m 14 minute walk. It is not considered 4yr-11yr children could walk at this speed, and would need to walk along the busy, polluted A2 with poor pavements and crossing points.
- According to the transport assessment, the Institution of Highways and Transportation guidance 'Providing for Journeys on Foot' suggests the acceptable walking distances to schools is 1000m. This means that the school, at 1100m is outside the 'desirable' and 'acceptable' walking distance, especially when considering that Newington Primary School takes children from age 4-11 years.
- Archaeology – the initial assessment of Persimmon development expected little of interest and resulted significant finds. As such requests a full site assessment is carried out
- Ecology – raises questions regarding the follow up to the Preliminary Ecological Appraisal re reptiles; plant diversity; future management. Concerns without bollards the outer grass verges would be destroyed from parking. Questions proposed species mix; and requests additional log piles.
- no S106 information on a contribution to supporting wider biodiversity in Newington or creating/supporting new wildlife corridors to keep the landscape connected.
- Infrastructure concerns – the local school and GP surgery are at capacity and not accepting new admissions. Future residents would likely drive to schools, shops and better rail services from Rainham and Sittingbourne.
- Archaeology – the initial assessment of Persimmon development expected little of interest and resulted significant finds. As such requests a full site assessment is carried out

Relevant Appeal Decisions

- Refers to other appeal decisions for residential dwellings proposed outside the settlement boundary dismissed in Newington which are relevant including; (APP/V2255/W/17/3185369 – three dwellings outside the settlement boundary; APP/V2255/W/20/3245359 – conversion of a former agricultural barn to a single dwelling; APP/V2255/W/20/3250073 – single dwelling in the setting of a listed building; APP/V2255/W/20/3247555 – single dwelling to the rear of 132 High Street
- Swale has a 4.6 year housing supply and consider this is close enough for the harm from this proposed development to outweigh the need.
APP/V2255/W/20/3246265 – Land Off Jubilee Fields is relevant which was for 41 houses in adjacent village of Upchurch, 3 miles from the Eden Meadow site. The inspector found the scheme would be contrary to the objectives of the Framework as a whole. As the shortfall in the 5YHLS is not acute, the cumulative adverse impacts of the proposal would significantly and demonstrably outweigh the scheme's modest social and limited economic benefits. Consequently, the presumption in favour of sustainable development does not apply.

7.2 Bobbing Parish Council Object (23/04/20) for the following summarised reasons;

- Does not conform to the Swale Local Plan
- Outside the village built up boundary
- Not allocated for residential development
- Traffic will contribute to excessive pollution levels between Newington and Key Street

- Traffic will add to the already congested routes along the A2 and A249, including narrow sections of Newington High Street and Keycol Hill
- Developers information suggests much larger future development
- Proposal will contribute to the merging urbanisation of Newington with Sittingbourne
- Development is not brownfield land, it is farm land which has been poorly managed

7.3 Hartlip Parish Council Object (21/04/20; 19/04/21; and 02/06/21) for the following summarised reasons;

- Supports the objection of Newington Parish Council
- The reasons for refusal set out in 16/505861/OUT for the 9 unit scheme at Eden Meadow are applicable to this application in greater measure
- The proposed scheme would extend built development into the open countryside to the south of existing built development and would have considerable landscape impacts.
- Agrees with the Conservation Officer that the quantum of development is too much and is suburban
- Air quality issues prevalent along the A2
- The land is Best and most versatile agricultural
- Train and bus services are poor, and the site is some distance from the village school with considerable distances to be walked by small children across a very busy, polluted and dangerous A2 or driven to the school.

7.4 Upchurch Parish Council Object (23/04/20) for the following summarised reasons;

- Concerned about the impact on Upchurch and surrounding villages due to additional traffic, and use of country lanes.
- Additional harm to pollution and poor air quality

7.5 Natural England raise no objection (09/04/20; 07/10/20; 19/04/21; and 07/06/21) subject to the appropriate financial contribution being secured (namely £253.83 for each dwelling), Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site on the coastal Special Protection Areas and Ramsar Sites. However, due to the People Over Wind ruling by the Court of Justice of the European Union, Natural England advise that the measures to avoid or reduce the likely harmful effects from the development may need to be formally checked and confirmed via an Appropriate Assessment.

An Appropriate Assessment has been carried out and consulted with Natural England. Natural England have reviewed the submitted information and raise no objection, subject to securing a SAMMS payment.

7.6 Environment Agency have no comments on this application (17/04/20; 09/04/21; and 26/05/21) and notes in falls outside their remit as a statutory consultee

7.7 National Highways (formerly Highways England) raise no objection subject to conditions (02/06/20; 16/10/20; 22/04/21; and 02/06/21)

The requested conditions include the M2J5 Grampian condition that restricts occupation until the M2J5 improvement scheme is open to traffic; and a condition seeking details of a construction management plan

The latest proposal is for a reduced quantum of 20 units. While a slightly reduced impact might be expected, the above points remain valid (re impact on M2J5, and the A249 Key Street Junction) and hence provided the above mentioned conditions are imposed we would be satisfied that the development will not materially affect the safety, reliability and/ or operation of the SRN (the tests set out in DfT C2/13 para's 9 & 10 and MHCLG NPPF201 para 109). The comments in the formal response dated 01/06/20 remain valid.

7.8 Southern Water raise no objection (21/04/21 and 01/06/21)

Notes that due to additional foul sewerage flows from the proposed development may require network reinforcement which would be provided by Southern Water. Southern Water therefore raise no objection to the development subject to the following condition relating to; occupation to be phased in line with the delivery of sewerage network reinforcement works. Southern water recommend an informative relating to foul sewerage.

7.9 KCC Economic Development requested contributions (07/04/21) towards;

- Secondary Education - £5176 per house (total £103,520.00 towards the new Secondary School construction upon land off Quinton Road, NW Sittingbourne policy MU1)
- Secondary Land - £2635.73 per house (total £52,714.60 towards the new Secondary school site acquisition upon land off Quinton Road, NW Sittingbourne)
- Community learning - £16.42 per dwelling (total £328.40 towards additional equipment and resources at Sittingbourne Adult Education Centre)
- Youth Service - £65.50 per dwelling (total £1310.00 towards additional resources for the Youth Service in Sittingbourne)
- Library Bookstock- £55.45 per new dwelling (total £1109.00 towards additional services and stock at Sittingbourne Library)
- Social Care - £146.88 per dwelling (total £2937.60 towards specialist care accommodation within Swale Borough)
- Waste - £183.67 per dwelling (total £3673.40 towards MRF and additional capacity at the HWRC & WTS in Sittingbourne)
- A condition regarding high speed fibre optic broadband connection
- All homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)

7.10 **NHS Kent and Medway Clinical Commissioning Group (CCG) (27/10/20)** request the following contributions: General practice – a financial contribution of £22,572 towards refurbishment, reconfiguration and/or extension of: Green Porch Medical Partnership, Kemsley, Sittingbourne and/or towards new general practice premises development in the area.

7.11 **KCC Flood and Water Management raise no objection** subject to conditions (02/06/20; 08/04/21 and 20/05/21)

08/04/21: It is understood that there has been a substantial change in the proposals and subsequent layout of the development. The number of properties has been reduced from 35 to 20 and to accommodate this new number of properties, the layout of the access roads has changed. The Foul and Surface Water Drainage Strategy report by iD LTD has been amended to take account of these changes and it is accepted that the original principles for permeable paving and soakaways remains. As the principles remain, our previous comments surrounding ground investigations and infiltration testing remain a requirement on moving the strategy forward.

02/06/20: Raised no objection subject to details via condition, and provided comments regarding ground investigations and soakaways to be addressed at the detailed design stage.

7.12 **KCC Highways raise no objection subject to conditions (23/06/21)**

23/06/21: I am satisfied that the traffic generated by the proposed development can be accommodated on the Local Highway Authority's network with the appropriate mitigation provided, and these latest details submitted now address the outstanding items that had been raised. Specifically, drawings have now been submitted to indicate the principle of a gateway feature as had been requested, which is considered an appropriate addition to the public highway on this stretch of the A2.

As such no objection is raised subject to the conditions or planning obligation securing; the submission of a Construction Traffic Management Plan; control of vehicle parking and turning space; details of electric vehicle charging; provision of cycle storage; completion of off-site highway works to provide a 30mph village gateway feature prior to the use of the site commencing; Grampian condition to restrict occupation until the A249/Key Street roundabout highway improvement contract has been awarded; highway construction details; and a S.106 contribution towards A249/Key Street highway improvements to the value of £28,800

Previous comments

11/05/21: KCC Highways noted that the submitted the swept path drawing does appear to demonstrate that the refuse vehicle can negotiate the development, assuming any parked vehicles outside of the designated spaces are not obstructing the route, and there are places where opposing traffic can pass. At 4.8m wide, Manual for Streets and the Design Manual for Roads And Bridges both list that as suitable for a car and HGV to pass one another.

The contribution formula applied using a figure of £2,400 per vehicle movement through the Key Street junction during the two network peaks (AM and PM). The Transport Assessment predicts that 12 movements would be generated by this development over those 2 hours, so we would seek a contribution of £28,800.

23/04/21 (20 dwelling scheme): I note that the scale of the development has again been reduced from the initial proposal, and now consists of just 20 dwellings, half that of what had initially been applied for. You will be aware from my previous consultation responses to this application that the principle of the development would be acceptable for the higher number of residential units, provided that highway mitigation to address the impact upon the existing highway network is provided. The relevant issues in this respect are the capacity of the Key Street/A249 junction, and traffic approaching the development site along the A2.

It is considered that these two issues would still need to be addressed as advised before by the requirement to contribute towards the HIF recovery funding under the relevant valuation formula, and installation of a gateway feature at the 30mph speed limit terminus. In this regard, I note that the trip distribution submitted in the updated Transport Statement now predicts that the development proposals would generate 6 vehicle movements through the Key Street roundabout in each of the AM and PM peak hours, together with 4 movements through the centre of Newington during both those periods. As with other development proposals affecting the Key Street junction that are being asked to contribute towards the HIF recovery, Grampian conditions are being applied to restrict occupancy until the HIF improvement works contract has been awarded.

As before, I would reiterate that the proposed development will have to remain in private management as it would not connect directly to the adopted public highway. The Highway Authority would therefore have limited interest in the specific layout of the proposals, but I can advise you as follows in order to assist you in your assessment of the details submitted:

- Parking provision appears to be in accordance with the Swale Borough Council adopted supplementary planning document parking standards, if you are satisfied that the design of the car barns comply with your design guidance. Visitor parking provision also meets the amount required, and is evenly spread throughout the development.
- Whilst I note that the Transport Statement describes the traffic flow within the development operating under a one-way system, I do not think that this would be complied with. However, I do not consider this necessary in any case, as the carriageway width would meet the standards for accommodating two-way movement already. Nonetheless, swept path analysis should be provided to demonstrate that the refuse vehicle can manoeuvre through the site.

14/05/20 (comments on original scheme re access): The existing geometry of the junction and access route through the earlier Ellen's Place development is considered suitable to serve the proposed scheme, as the layout does meet the design parameters set out in Kent Design Guide for a residential street serving up to 50 dwellings as a

cul-de-sac. The total number of dwellings to be served would amount to 49, so is within the threshold. This category of street type, Minor Access Road, typically aims for a 4.8m wide carriageway, which is what the existing carriageway has been narrowed down to beyond once past the initial 5.5m wide section that exists closer to the junction. Kent Design Guide sets an absolute minimum width of 3m for this street type and would need passing places for vehicles at least within 40m of one another, so it is clear that the existing geometry is compliant.

7.13 KCC Biodiversity raise no objection subject to conditions (10/08/21)

25/08/21: KCC Biodiversity have reviewed the ecological information submitted with the planning application and advise that they are satisfied it provides a good understanding of the ecological interest of the site and no further information is required prior to determination. The updated information sets out the existing hedgerows and mature trees along the eastern and western boundaries would not be within the residential curtilage of properties. The updated information has clarified information regarding the reptile receptor site within the application site, and KCC Biodiversity are satisfied that sufficient information has been provided to demonstrate that the receptor site will support the population.

Ecological Enhancements - The submitted EclA has made the following recommendations to enhance the site: Native species hedgerow planting; Wildflower meadow; Native species planting; Bat boxes on buildings and trees; Bird boxes on buildings and trees ; Hedgehog highways

If planning permission is granted the following conditions are required;

- Reptile mitigation (completion of mitigation prior to commencing on site; and if works have not commenced within 2 years a review and update of reptile mitigation is to be submitted)
- Ecological Management Plan & Details (including management of the reptile receptor site)
- Ecological Enhancement Plan
- Construction Management Plan
- Bat Sensitive lighting Plan

7.14 MKIP Environmental Health - No objection subject to conditions, and securing the air quality damage cost (£11,545) via a S.106 agreement (07/09/21, 20/10/21 and 27/10/21). The comments set out that the development would have a negligible impact to air quality to receptors along the A2, including those in both Newington and Keycol Hill AQMAs, and that air quality would not be worsened if development went ahead. The comments also set out why a reason for refusal is not proposed on air quality grounds.

7.15 07/09/21: *The amended Air Quality Assessment (AQA) by Lustre (July 2020) evaluated the cumulative impacts from relevant and committed development traffic flows within Rainham and Swale sites on receptors along the A2 and in particular, the 2 AQMAs at Newington and Keycol Hill. The assessment showed significant transboundary effects, with the greater contribution of traffic flows coming from the Rainham development sites. This is something that needs to be explored further with Medway Council.*

The future baseline within the AQA results showed (table 15 and 16) a substantial impact mainly arising, as a result of the cumulative impacts from Medway developments and that most receptor sites will continue to exceed the National Air Quality Objective 40 µm/3. However, the proposed development alone shows negligible impact to receptors. The proposed development site is small i.e., 20 dwelling with damage cost of £11, 545 which is representative of the scale of the development.

As part of the air quality assessment process, we can consider the cumulative impact in this area and it shows that we need to consider a wider mitigation scheme for further development happening within the area.

There are a total of three small application sites for Newington currently under consideration which could go towards a wider scheme such as an improvement to the bus service. However, these alone will not equate to the cost amount needed for such a scheme. If a Bus improvement plan was considered for this area, other application sites in Sittingbourne and Rainham (that link with the bus route) would need to contribute via S106 to make this viable.

It is essential that an agreement is made for pooled contributions, to provide a platform for a strategic scheme for air quality mitigation to reduce the number of single use travel by new occupants and existing residents, for example, discounted public transport tickets or improvement to the public transport services or car clubs. Unfortunately, to improve an alternative mode of transport to car use such as the bus service will be costly and can only be achieved through pooled contributions.

There are significant limitations within this part of the district as there are no other alternative routes to support new walking and cycling routes or reduce car usage. From previous meetings with Newington Parish council related to the Keycol Hill AQMA declaration, it was evident the bus service improvement was a priority measure for this area. The frequency, timing and cost for these services need to be improved.

I would recommend that a mitigation statement is drawn up and agreed to ensure a pooled contribution for mitigation is achieved separate to this applicant in which the damage cost value from this application can be included.

Due to the size of this development the air quality impacts from the AQA are very low with negligible impact compared to other already committed development sites. As a result, I have no grounds to object to the current application.

- 7.16 **20/10/21:** The comments made by our councillors raising concerns in relation to why air pollution has not been included for the grounds for refusal for the Eden Meadow application have been noted.

The air quality assessments have been scrutinised by officers of the Environmental Protection Team to which the final report is acceptable and comprehensive in the results displayed. The results in the report have identified that the development site alone shows negligible impacts to receptors along the A2, including those in both Newington and Keycol Hill AQMAs. However, the report also shows a substantial impact mainly arising, as a result of the cumulative impacts from committed Rainham developments

(Medway). With the Rainham developments, most receptor sites in the 2 AQMAs will continue to exceed the National Air Quality Objective 40 µm/3.

There are similar development applications in Newington that have also been scrutinised, and all of them have provided similar results as this application in that the impact to air quality is negligible. Unfortunately, the applications were not submitted at the same time. If they were, the cumulative impacts of only the Newington application sites could have been requested as part of a separate assessment scenario. This is an option moving forwards and something that will be asked for any future applications in this area.

A recommendation for refusal on air quality grounds was not made as it was considered that there is insufficient reason for refusal that could be justified if an Appeal against the Decision were made. To reiterate, the Air quality Assessment showed negligible impacts and that air quality would not be worsened if the development went ahead. This is very different to the Gladman case which showed ‘adverse impacts’ from the development.

As a part of the Air Quality Assessment, a Damage Cost Assessment was undertaken which has resulted in a sum of £11,545 being put forward. This is a small sum in air quality mitigation terms which is reflective of the negligible impact the development will have. This sum would be secured by a S106 agreement should the application be granted. The assessment also makes recommendations regarding appropriate air quality mitigation measures that this sum could contribute to such as:

- Car club provision and preferential parking within development and weighting given to local car eV car clubs where possible.*
- Ensure good cycle paths to link existing cycle network, with adequate provision of secure cycle storage.*
- Working with Swale environmental protection and local planning to identify suitable NOx and PM abatement measures off-site, within close vicinity to the development and/or receptors that are more likely to be impacted due to cumulative impacts (i.e., receptor R4) modelled. This includes, where feasible, application of emerging best available technology not entailing excessive cost (e.g., use of City Trees concept).*

As part of the air quality assessment process, we can consider the cumulative impacts and it highlights the need for a wider mitigation scheme for any further small developments happening within the area. The report showed significant transboundary effects, with the greater contribution of traffic flows coming from the Medway (Rainham) development sites. These concerns need to be explored further with Medway Council and a strategic approach to the problem is essential.

There are three other applications within the Newington area that are demonstrating negligible impact in terms of air quality and have resulted in small damage costs. If these damage cost values were pooled together as a wider contribution fund, then the most appropriate form of mitigation for the area can be assessed. Therefore, in this situation, the decision was made to not ask the applicant to provide mitigation with cost benefits, as there is little that can realistically be undertaken with the small damage cost value attributed and being representative of the scale of the development. In 2022, SBC will be updating their Air Quality Action plan and as part of this we can assess the most

appropriate strategic measures for this area in conjunction with the Parish Council. SBC will also need to work in partnership with Medway Council to produce a solution to the wider problem of the impact on air quality arising from development in Medway.

- 7.17 **27/10/21:** To reconfirm the Environmental Protection Team did not object to this application on air quality grounds due to the development site alone showing negligible impacts, and proportionally being significantly smaller when compared to the Rainham development sites (Medway area). The cumulative impacts were assessed, which identified substantial impacts at multiple receptor sites, as a result of high traffic flows coming from Rainham development sites. Concerns have been raised with planning including recommendations for needing strategic approach to the problem. This will require Swale to work with Medway Council to seek a solution.

As mentioned previously the air quality impacts are negligible for this development site which is different to the Gladman's case which was a larger development site with much more significant air quality impacts. Also different is that the EP team cannot prove that air quality and human health would suffer if this development were to go ahead.

The total damage cost is an estimate of the costs to society due to the impact of increases in emissions associated with the proposed development. Usually, the EP team would ask for the damage cost to be spent on the development alone with a listed cost attached, however the damage cost is low £11, 545 and this limits what can be done with it. At the time of reviewing this application there were other applications similar in scale being reviewed for this area, and that it was thought that pulling together the damage costs could allow a more effective scheme of mitigation for the area as a whole. If members do not feel this is an adequate approach, we would recommend the applicant provides a specific mitigation option for the £11,545 damage cost. This could be one of the measures included in the applicant's air quality assessment or to consider other measures such as electric bikes for all residents. This would need to be agreed with the Environmental team and conditioned as part of the application.

Previous comments

22/07/21: Due to the sensitivity of the area relative to air quality and the mitigation limitations I currently object, and that further information is required prior to determination of the application. The applicant needs to provide additional details relative to the cumulative impacts and an effective scheme of mitigation measures.

20/04/20: The original EP comments (dated 20/04/20) requested the following conditions; Submission of an Construction and Environmental Method Statement including details of dust suppression; Construction hours condition; AQ standard conditions

- 7.18 **Kent Police raise concerns** (22/04/20, 16/10/20 and 28/05/21) to the application and request a condition regarding secure design. The concerns and comments include the need for boundary treatment details and inclusion of defensive planting; car barns should be lit and paint a light colour inside; the need for sufficient lighting via a condition; natural surveillance for parking areas; doorsets and windows must meet PAS 24: 2016 UKAS certified standard, STS 201 or LPS 2081 Security Rating B+

7.19 Rural Planning LTD raises concerns re potential conflict with Policy DM31 (08/04/20)

The development would not fall foul of National policy, as per para 170 of the NPPF. However regarding Local Plan policy, as KCC notes, no “significant” qualifier is applied to the protection of agricultural land against development. The development on any agricultural land must meet “an overriding need that cannot be met on land within the built-up area boundaries”; if that is the case, there is a further proviso that development on BMV land will only be permitted under two exceptions.

The first exception (the site being allocated for development by the Local Plan) does not apply. For the second exception to apply, there must be no alternative site on land of a lower grade than 3a, or the use of such other land would significantly and demonstrably work against the achievement of sustainable development. The KCC study does not demonstrate that this exception applies, for the reasons outlined above, and the issue remains an open question, at least to my knowledge.

The above analysis, therefore, suggests a potential conflict in this case between Local and National Policy; it would be for the Council to determine, having regard to Planning law, which policy should be regarded as taking precedence, and also what weight should be given to the loss of this land within the overall Planning balance.

7.20 Medway Council raise no objection (06/10/20) subject to a condition securing an air quality mitigation scheme. The comments provided by Medway Council note that the development would have a negligible impact on air quality in the Rainham AQMA.

7.21 SBC Affordable Housing Manager raises no objection (04/10/21) subject to securing a commuted sum of £704,119.60 for an off-site contribution towards affordable housing via a legal agreement.

04/10/21: The SBC Affordable Housing Manager has reviewed the external Pathfinder report regarding a commuted sum, and information provided regarding issues securing a registered provider and notes; The values applied within the Eden Meadow report seem reasonable for the Newington area and, although very slightly below those used on two other relatively recent commuted sum schemes (2019 & 2020) which yielded an average £91,000 per unit, noting these schemes were in Iwade and Sittingbourne, I am happy to accept the proposed sum for this site of £704,119.60.

06:05/21: I note that the total number of dwellings being provided has reduced to 20, therefore in accordance with Swale’s Local Plan and because this development is located in the Countryside area of Newington, 40% of the dwellings should be delivered as 8 affordable homes, with the tenure split to be 7 affordable/social rented homes (90%) and 1 intermediate home (10%).

I note that the revised design and access statement addendum includes a full schedule of types/sizes of property being developed, and that they are all referred to as ‘private tenure’. For this reason I have provided the table below that details a suggested reasonable and proportionate mix of affordable homes, along with the required tenure split: The amended documents reference the difficulty in securing an RP for the low number of affordable homes and suggests an off-site contribution in lieu of delivery. A

commuted sum/off-site contribution can only be considered with supporting evidence such as a viability report and reasoned proof from all RP's that they are unable to accept the s106 affordable homes. Actual affordable housing delivery will always be sought in the first instance, with off-site contributions only being considered in exceptional circumstance and with the support of clear evidence to substantiate this alternate need. I am able to provide a list of RP's including those who are currently seeking to secure low numbers of affordable housing on smaller schemes in Swale. Please let me know if this list is required.

	Total On Site	Affordable 40%	Affordable Rent Tenure (90%)	Shared Ownership (10%)
2B	1	1	1	0
3BH	12	5	4	1
4BH	5	2	2	0
5BH	2	0	0	0
	20	8	7	1

I can confirm that there is a need for all types and sizes of affordable housing in the Newington and Sittingbourne area, including wheelchair adapted housing and for this reason I would recommend that one affordable home is delivered to M4(3) standard with all other homes being provided to M4(2) standard.

7.22 Lower Medway IDB raise no objection (06/04/21)

7.23 Network Rail raise no objection (22/05/20)

7.24 **Southeastern** provided comments requesting improvements to Newington Railway station; Improvement to the transport interchange at the station, to provide additional cycle parking with Shelter, lighting and CCTV coverage; Additional waiting shelters on each of the two platforms to provide more waiting facilities for passenger; Additional Customer Information Screens on both platforms and at the front of the station; Additional customer help point (remote assistance) on platform 2.

8. BACKGROUND PAPERS

8.1 Appendix List

Appendix 1: Newington Parish Council Comments 15.04.20

Appendix 2: Newington Parish Council Comments 19.10.20

Appendix 3: Newington Parish Council Comments 19.04.21

Appendix 4: Newington Parish Council Comments 28.05.21

Appendix 5: Newington Parish Council Comments 20.12.21 (Cover Letter re Independent Air Quality Advice)

Appendix 5A: Newington Parish Council Comments 20.12.21 (Independent Air Quality Advice)

Appendix 6: Huskisson Brown Landscape Review Rev D

Appendix 7: Appeal Decision 6 Ellens Place APP.V2255.W.20.3250073 (19.503203.FULL)

9. APPRAISAL

Principle of Development

- 9.1 The site itself sits outside of any built up settlement boundary and is therefore in the designated countryside. It is not allocated for any form of development in the Local Plan. Policy ST1 of the Swale Borough Local Plan 2017 (the Local Plan) seeks to deliver sustainable development that accords with the settlement strategy for the Borough. Policy ST3 sets out the settlement strategy and directs development to existing defined settlements and allocated sites. It seeks to restrict development in the countryside unless it is supported by national planning policy and able to demonstrate that it would contribute to protecting the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 9.2 The National Planning Policy Guidance (NPPF) seeks to promote sustainable development in rural areas, and housing should be located where it will enhance or maintain the vitality of rural communities and avoid isolated new homes in the countryside.
- 9.3 Paragraph 80 of the NPPF states that the local planning authority (LPA) should avoid isolated homes in the countryside. Given the site's position close to the settlement boundary and adjacent to existing residential dwellings, it is not considered that the site would constitute isolated homes in the countryside.
- 9.4 Paragraphs 11 and 74 of the NPPF requires the Council to meet the full, objectively assessed needs (OAN) for housing and other uses as well as any needs that cannot be met within neighbouring areas. The Council's latest position was published in Spring 2021 following the publication of the Housing Delivery Test (HDT) that saw the Council meeting 89% of its requirement. As a result, a 5% buffer must be applied to the housing land supply figures in assessing the 5 year HLS position. To this end, the Council can demonstrate a supply of 4.6 years and therefore cannot demonstrate a 5 year housing supply. In such situations, the NPPF advises that plans and decisions should apply a presumption in favour of sustainable development, and the "titled balance" is engaged. For making decisions this means that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- 9.5 *11.d) i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or 11.d) ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
- 9.6 The site is within the 6km buffer zone of the Swale and Medway Special Protection Areas (SPAs) which is covered by para 11.d) i. As such, an appropriate assessment has been carried out (as set out in para 7.5 that there would be no adverse impact on the integrity of the SPA subject to appropriate mitigation (SAMMS payment). As such, being within the SPA would not represent a reason for refusal, and the application must be considered against para 11.d) ii. Therefore it needs to be considered whether the proposal constitutes sustainable development.

9.7 Para 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways:

*a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

*b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

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

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

Environmental Role

9.9 With regard to the proposed dwellings, a key consideration is whether future occupants of the dwellings would be likely to meet some/all day-to-day needs by walking to facilities, therefore reducing the need to travel by private car which would reduce greenhouse gas emissions (para 152 of the NPPF).

9.10 The site is close to the built area boundary of Newington, which is identified as a Rural Local Service Centre (Tier 4) within the Swale settlement strategy and which is considered to be a relatively sustainable settlement with regard to the range of shops and services within Newington.

9.11 The site is close to the existing settlement boundary and there is a continuous lit footpath from Eden Meadow along the A2 to services within Newington. There are a number of services and facilities within walking distance of the site in Newington which includes The Co-op, pharmacy/post office, takeaways and Bull pub are approximately 600m to the west of the site, Newington train station is roughly 800m away, and Newington Primary School lies approximately 1.2km to the northwest along Church Road and School Lane. Other facilities within walking distance include the village hall, Newington Methodist Church, Newington Recreation Ground, car dealers and repair services, St Mary Church.

- 9.12 In terms of public transport, as noted the site is approximately 800m away from Newington train station which provides services westwards towards Medway and London Victoria (and London Cannon Street) or eastwards towards Sittingbourne, Faversham, Ramsgate and Dover Priory. From this station, services to London Victoria are provided hourly between 6am-midnight Monday-Saturday (with additional services between 6am-9am Monday-Friday); services to Ramsgate and Dover Priory running every hour between 6am-midnight Monday-Saturday (as per October 2021 timetable) Connections to High Speed services to London St Pancras can also be gained from Rainham and Sittingbourne twice hourly.
- 9.13 The closest bus stop to the site is located approximately 450 metres to the west, within Newington village, which provides bus services to Sittingbourne. The bus stop is served by routes 326, 327 and school services 328 and 372. There are hourly buses towards Sittingbourne between 7.30am-6.30pm Monday-Saturday, with no services on Sundays. With regard to services towards the Medway Towns, the closest bus stop to the site is located approximately 700 metres to the west, within Newington village. The bus stop is served by routes 326, 327 and school services 328 and 372. There are hourly buses towards the Medway Towns between 6.30am-5.30pm Monday-Saturday, with no services on Sundays.
- 9.14 Therefore, although the site is in the designated countryside, in respect of its access to services and facilities it is within walking distance of Newington Railway Station and bus stops on A2 High Street, which provides regular services to Sittingbourne to the east and the Medway towns to the west (amongst other destinations). As such, it is considered that the site is fairly well located in respect of accessibility to services and facilities, and future residents would be able to access services and facilities via sustainable travel routes including walking, cycling or public transport.
- 9.15 The Council's settlement strategy requires residential development to be steered to sustainable locations, whilst the site is situated in the open countryside, it is located close to the settlement boundary of Newington which is identified as a relatively sustainable settlement in the Councils settlement hierarchy. As such it is considered that the site is a suitable location for this scale of residential development, having regard to the settlement strategy and accessibility to services and facilities. It is therefore considered that the site would comply with policies ST1 and ST3 of the Local Plan which seek, amongst other matters, to deliver sustainable development that accords with the settlement strategy. Therefore the proposal is considered to contribute toward a move to a low carbon future as advocated by paragraph 152 of the NPPF. This is considered to be a positive in terms of whether the proposal comprises sustainable development.
- 9.16 Furthermore, the appeal decision for existing 9 dwellings at Eden Meadow (which the current proposal would access through) is relevant and a material consideration (appeal reference; APP/V2255/W/16/3162806). The inspector outlines that the site represents a sustainable location, and concludes that the development was sustainable development.
- 9.17 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.

Social and Economic Role

- 9.18 The proposal is for 20 dwellings comprising a mix of 1 x 2 bed dwelling, 12 x 3 bed dwellings, 5 x 4 bed dwellings and 2 x 5 bed dwellings provide a range of family sized dwellings which would be of some social benefit. As set out above, the Council are unable to demonstrate a 5 year supply of housing sites and therefore the delivery of dwellings, for which there is a current under supply would constitute a social benefit. The provision of affordable housing (via a commuted sum) would also give rise to further social benefits for the Borough. As outlined above, the site has good connectivity with Newington with has a reasonable range of services. As such it is considered that the proposed dwellings would help support the social viability of the Newington including existing shops, schools and nearby employment opportunities. It is considered that this would result in a positive impact.
- 9.19 The construction of the dwellings would give rise to some economic benefits. However, this would be relatively short term and as such carries limited weight. The introduction of future occupants would also contribute to the viability of existing services and facilities which as set out above I consider that there would be a good prospect that they would be likely to utilise the offer within Newington. It is therefore considered this would result in a neutral/positive impact.

Principle of Development Summary

- 9.20 Based on the above considerations, I am of the view that the site is fairly well located for housing in respect of future occupants being able to access services and facilities via sustainable travel methods including walking and cycling. In addition, the social benefits associated with housing delivery, and in addition affordable housing delivery would in my view weigh in favour of the scheme. I also consider that there would be economic benefits as set out above. This would be required to be weighed against the development of undeveloped land which is considered to have a significant adverse impact; and any harm in respect of the impact upon the beauty, value and tranquillity of the countryside and the setting of designated heritage assets which will be discussed later in the report.
- 9.21 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 and is a positive when the housing deficit is considered.

Visual and Landscape Impact

- 9.22 The land, as an undeveloped field, has an open and undeveloped rural character and appearance and this contributes to the rural setting around Newington. Furthermore, the site forms part of the irregularly shaped hinterland providing the countryside setting to this part of Newington. The introduction of built form onto the site would clearly change the character, appearance and functioning of the site from an open undeveloped field to residential, and this would fail to protect the countryside, contrary to policy ST3 of the adopted plan.

- 9.23 The application has evolved since its original submission and in response to concerns that the proposals may result in a harmful impact on the rural landscape. The amendments to the scheme have included the reduction in dwelling numbers (from 40 to 20) and amendments to the built development area within the site which is reduced in the current proposals. The scheme includes changes to the boundaries which incorporate landscape buffer zones on the eastern, southern, western and part of the northern boundaries (as detailed in para 2.4).
- 9.24 In landscape terms, the site is within the Newington Arable Farmlands character area as outlined within the adopted Swale Landscape Character and Biodiversity Appraisal 2011 SPD, where the conditions is described as 'poor' with a 'low sensitivity', and the guidelines for this area are to 'create'. This SPD identifies that one of the key characteristics within this area is that the settlement is limited to ribbon development along major roads, and isolated farmsteads.
- 9.25 It is also important to note that the Council have produced a Swale Landscape Sensitivity Assessment (2019) as part of the evidence base for the Local Plan Review which has been reported to the Local Plan Panel. This site falls within area NN2 – the undulating arable farmlands to the south east. It finds that the overall assessment of landscape sensitivity to future change to residential development is medium, as outlined in the following: *"The landscape has a very undulating topography, a moderate sense of rural character with limited modern human influences, limited time depth with some heritage assets, limited valued natural features and semi-natural habitats, is visually enclosed and acts as an important rural gap between Sittingbourne and Newington. These attributes, in combination with the absence of landscape designations, indicate a **moderate** overall sensitivity to future change from residential development."*

It then gives guidance that any development proposals in this area would need to consider:

- *Ensure reference is made to relevant published guidance, including the Kent Design Guide and the Swale Landscape Character and Biodiversity Appraisal*
- *Any new development should follow a landscape-led approach, utilising landform and natural contours to sensitively contain and provide boundaries to built form; and conserving and reinforcing the existing network of shelterbelts, hedgerows, copses and orchards, which provide landscape structure, enclosure and screening. Consider the creation and restoration of such features, where these have been lost, for example the traditionally managed orchards. This landscape-led approach should extend to the consideration of green infrastructure (GI), and opportunities to incorporate existing valued landscape features within a network of multi-functional, accessible green and blue spaces and routes, which is capable of delivering a wide range of environmental and quality of life benefits for local communities.*
- *Ensure any new development is sensitive to local character and context in terms of building styles, materials, scale and massing. Sensitive lighting design should be considered.*

- *Maintain and enhance the well-integrated edges of the settlement so that development is not generally visible from the surrounding rural landscape. Provide guidance to promote the retention of traditional rural boundaries and hedges including the use of native plants and avoid urban style boundaries/fencing.*
- *Maintain Newington as a distinct settlement and avoid the visual impression of a continuous suburban character linking Sittingbourne, Keycol and Newington.*
- *Conserve and manage remaining areas of traditional orchards.*

9.26 The Council have sought advice from an external landscape consultant (Huskinsson Brown) to assess the submitted LVIA (and amended versions) and development proposals. Huskinsson Brown have provided advice on the various amendments to the scheme, and their advice on the 20 unit scheme is included at Appendix 6.

9.27 The advice received has identified areas of concerns including;

- The LIVA at para 4.6 notes that the site is an undesignated landscape, seemingly marking it down accordingly. Huskinsson Brown consider there is a lack of consideration of the part the application site plays in contributing to the wider landscape setting to this edge of Newington and to the subtlety of the landform and how this ties in to the locally typically characteristic undulating landscape.
- Huskinsson Brown advise the low landscape value recorded in the LVIA is not adequately substantiated, has not fully taken account of the factors that relevant guidance (GLVIA3) advises should be considered and is thus open to question.
- The proposed pattern of development would disrupt the established pattern at the edge of the settlement where it is essentially of linear form on the south side of the A2 in vicinity of the site.
- Disputes the LVIA which sets out that the site is of low landscape sensitivity. (*At paragraph 4.8, the LVIA concludes that on account of both the low landscape value and low landscape susceptibility, the site is of low landscape sensitivity. Clearly, as we have noted, the LVIA ranking of low value is open to question and we consider the low ranking of susceptibility to be wrong. Thus, the LVIA's ranking of landscape sensitivity as being low, this being derived from the consideration of both value and susceptibility, is, in our opinion, an under evaluation.*)
- A landscape led approach does not mean that a development proposal is acceptable, rather that it should be expected to be somewhat less harmful than otherwise might have been the case. In this instance it does not lessen the physical encroachment into the open countryside nor deliver a better relationship to the existing urban grain.
- In relation to the likely landscape and visual effects (LVIA Section 7), para 7.6 of the LVIA concludes that: "*On balance the proposed development is considered to represent an improvement in terms of landscape features and landscape character, responding positively to the stated aims of the relevant published characterisations and design guidance*". Huskinsson Brown conclude that the assessment of the visual effects of the scheme is slanted and should not be relied on to gauge the effects likely to occur. Huskinsson Brown do not agree with the general thrust that effects would be likely to be beneficial or even neutral.

9.28 The application site lies outside the built-up area boundary in the open countryside that is undesignated in terms of its intrinsic landscape and visual attributes. Taking into account the external landscape advice it is considered overall, the development now proposed, whilst modified to some degree from what was previously proposed, would still give rise to localised landscape and visual harm and would result in a clear

encroachment into the open countryside which abuts it on three sides. It would thus not be sympathetic to the existing established settlement pattern in the locality further eroding the open and rural setting to Newington along the A2.

9.29 As such it is considered that the proposals would conflict with Part C of Policy DM 24 'Conserving and enhancing valued landscapes' which states: "*The value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed. Part C. For all landscapes:*

1) The scale, layout, build and landscape design of development will be informed by landscape and visual impact assessment having regard to the Council's Urban Extension Landscape Capacity Study and Landscape Character and Biodiversity Appraisal SPD, including, as appropriate, their guidelines, and the key characteristics, sensitivity, condition and capacity of character area(s)/landscapes, taking opportunities to enhance the landscape where possible, including the removal of visually intrusive features."

9.30 This would fail to protect the countryside and landscape, be contrary policies ST1, ST3, and DM24 (which seeks to protect and enhance non-designated landscapes). The localised landscape and visual harm would give rise to harm to the intrinsic value, landscape setting, tranquillity, and beauty of the countryside, and this is a significant negative.

Heritage Impact

9.31 The application site is located immediately to the south of the grade II listed building known as Ellen's Place (comprising nos. 5 and 6 Ellen's Place). This is a vernacular type of building with a rural character.

9.32 The Conservation Officer has noted that the original outline application for 9 dwellings (allowed on appeal) and the subsequent reserved matters application failed to take adequate account on the designated heritage asset, and as a result, the setting of this listed building has been harmed.

9.33 The Conservation Officer has been part of discussions regarding the scheme and previous amended versions of the scheme. The proposals currently sought for 20 units have reduced the extent of built form closest to the listed building and increase the extent of soft landscaping in this area, and along the site boundaries with the open countryside. Whilst the Conservation Officer has noted that the scale of harm is lower than previous proposals for 40 and 35 units respectively, concerns remain regarding the impact on the rural setting of the grade II listed building. The remaining quantum of proposed new housing at this location is still such that it would serve to further suburbanise the setting of this listed building and largely sever its remaining visual connection with the open countryside to the south. Current views of the listed building from the public right of way (ZR65) to the south would be significantly blocked whilst views of the listed building from the A2 High Street and from the public rights of way to the north on high ground (ZR58 and ZR59) would see the building viewed with a semi-suburban, rather than a countryside backdrop, notwithstanding the proposed stronger landscape buffer in the northeast and eastern parts of the site under these

revised proposals. As such, the Conservation Officer objects to the proposals and sets out that the proposals would result in 'less than substantial' harm as identified by the NPPF at para 202.

9.34 The proposed development would further erode the rural setting to the vernacular form grade II listed building to the north of the application site, known as Ellen's Place, exacerbating the harm to its setting already caused by the Eden Meadow housing development allowed on appeal in 2017, by a further suburbanisation of its setting, notwithstanding the proposed landscape mitigation measures. The proposal would therefore fail to conform with Policy CP8 and Policy DM32 of the adopted Swale Local Plan (Bearing Fruits 2031) which advises, inter-alia, that planning permission for development proposals affecting listed buildings will be permitted provided that the building's setting will be preserved.

9.35 With regard to the NPPF, section 16 'Conserving and enhancing the historic environment' is relevant, including paras 199 and 202 which are set out below:

199. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

202. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

9.36 Planning legislation requires that, when considering whether to grant planning permission for development which affects the setting of listed buildings or heritage assets, the LPA shall have special regard to the desirability of preserving or enhancing the character of the area and to the special character of the listed building. These matters should be accorded considerable importance and weight when weighing this factor in the balance with other 'material considerations' which have not been given this special statutory status.

9.37 Some harm would arise from the proposal towards the significance of designated heritage assets, as set out above (Grade II listed Ellens Place). The resulting harm is considered to be 'less than substantial' and thus there is a presumption against the grant of planning permission. However such a presumption may be overridden in favour of development which is desirable on the ground of some other public interest. This is expressed in the wording of NPPF Para 202. The benefits of the scheme that can be considered to be in the public interest are:

- The provision of 20 houses at a time when the Council cannot demonstrate a five year housing land supply;
- A contribution towards affordable housing via a commuted sum of £704,119.60 – albeit this would be for an off-site contribution;

- The modest positive benefits of improving the economic and social vitality of the area (during construction and through the introduction of new residents);
- 9.38 Whilst the proposal would increase the supply of housing within the borough (including an off-site affordable housing contribution), it is considered that the benefits are limited. The harm caused to the heritage assets is irreversible and harm is harm, even if categorised as less than substantial. Ultimately the benefits are not considered to outweigh the harmful impacts of the development upon designated heritage assets.
- 9.39 Members should also note that an application (reference 19/503203/FULL) for a single dwelling within the grounds of 6 Ellen's Place which was dismissed at appeal (APP/V2255/W/20/3250073; decision dated - 03/12/2020 forms a material consideration in the determination of the application. The appeal decision (Appendix 7) notes that the *"proposal would cause less than substantial harm to a heritage asset, in the form of the Grade II listed building now numbered 5 and 6 Ellens Place, by the adverse effect on its special architectural or historic interest and the character or appearance of its countryside setting"*. The appeal decision notes that the open nature of the site is an important part of the listed buildings setting, and sets out that *"since the setting of 5/6 Ellens Place is to an extent compromised to the east, the open character of its setting to the west is all the more important. This importance is emphasised by the very recent development of Eden Meadow, the conception of which, and the original justification, seemingly paid no attention to the listed building and its setting"*.

Air Quality

- 9.40 The proposed development would utilise the existing vehicular access from Eden Meadow onto High Street (A2). Approximately 17m to the west of the existing access is the start of the Newington Air Quality Management Area (AQMA), and approximately 1km to the east of the existing access is the start of the Keycol Hill Air Quality Management Area (AQMA).
- 9.41 Air Quality Assessments and amended updates to this assessment have been provided as part of the application process, to provide further information with regard to cumulative impacts, traffic flows, and identified receptor points. As such, the Environmental Health Officer has set out; *the proposed development alone shows negligible impact to receptors. The proposed development site is small i.e., 20 dwelling with damage cost of £11, 545 which is representative of the scale of the development, and outlines 'due to the size of this development the air quality impacts from the AQA are very low with negligible impact compared to other already committed development sites. As a result, I have no grounds to object to the current application'*
- 9.42 Further comments were provided on 20/10/21 and 27/10/21 expanding on this outlining that the development site alone shows negligible impacts to receptors along the A2, including those in both Newington and Keycol Hill AQMAs, and proportionally being significantly smaller when compared to the Rainham development sites (Medway area). The comments outline that the Damage Cost sum is small in air quality mitigation terms but is reflective of the negligible impact the development will have. This sum would be secured by a S106 agreement should the application be granted. The submitted air

quality assessment also includes recommendations regarding appropriate air quality mitigation measures that this sum could contribute to such as:

- *Car club provision and preferential parking within development and weighting given to local car eV car clubs where possible.*
- *Ensure good cycle paths to link existing cycle network, with adequate provision of secure cycle storage.*
- *Working with Swale environmental protection and local planning to identify suitable NOx and PM abatement measures off-site, within close vicinity to the development and/or receptors that are more likely to be impacted due to cumulative impacts (i.e., receptor R4) modelled. This includes, where feasible, application of emerging best available technology not entailing excessive cost (e.g., use of City Trees concept).*

9.43 Environmental Health Officers have not recommended a refusal reason on air quality ground as it was considered that there is insufficient reason for refusal that could be justified if an Appeal against the Decision were made. To reiterate, the Air quality Assessment showed negligible impacts and that air quality would not be worsened if the development went ahead. This is very different to the Pond Farm Gladman case which showed 'adverse impacts' from the development. Another difference is that the Environmental Protection team cannot prove that air quality and human health would suffer if this development were to go ahead.

9.44 The Environmental Health Officer previously objected to the scheme due to lack of information, and concerns regarding the cumulative impacts of development on air quality. The Council has carefully considered whether a refusal reason regarding cumulative impacts would be sustained at appeal, but given the small scale of the development proposed; negligible impact outlined within the AQMA; and disproportionate cost of mitigation in relation to the scale of development has concluded that a refusal reason on these grounds should not be pursued. The Environmental Health Officer has advised; *'that a mitigation statement is drawn up and agreed to ensure a pooled contribution for mitigation is achieved separate to this applicant in which the damage cost value from this application can be included'*. The mitigation statement would need to be a strategic piece of work produced by the Council (with agreement by Medway Council) to address suitable mitigation for developments within Swale and along the A2. This would fall outside the application process, but once produced and adopted would be a material consideration in any future applications.

9.45 Newington Parish Council have commissioned an independent report (by the University of Kent Centre for Health Service Studies) to examine the air quality reports that form part of planning applications for residential development within Newington, including this application, and the data available from the air quality monitoring devices in Newington. At the time of this report, this information has not yet been reviewed by the Mid Kent Environmental Health Team, and Members will be provided with an update either by way of a tabled update, or verbal update at the committee meeting. A copy of the Newington Parish Council covering letter, and independent report can be found at Appendices 5 and 5A.

Residential Amenity

- 9.46 In terms of the impact on residential amenity, the closest neighbouring dwelling would be 4 Eden Meadow which would be situated to the north of plot 1. The neighbouring property is a two storey detached dwelling, which has been extended by a single storey extension (orangery) approved under application reference 18/503092/NMAMD. The amenity area of this property is situated to the rear, and there is a close boarded fence (approx. 1.8m) along the southern boundary. The submitted section drawing shows that the ground level is approximately 1m higher on plot 1 than the neighbouring dwelling at 4 Eden Meadow. There is a separation distance of approximately between 8.1m-11.6m between the side elevation of plot 1, and the ground floor rear elevation of 4 Eden Meadow. At first floor level, the separation distance increases to up to approximately 11.7m
- 9.47 The Council seeks a rear-flank separation distance of 11m, and therefore the proposal would maintain this separation distance at two storey level, and partially at ground floor level. However the single storey extension (orangery) would fall below the 11m threshold and the impact on this neighbouring dwelling needs to be considered. The footprint of 4 Eden Meadow would be angled away from the proposed dwelling at plot 1, with windows of the neighbouring plot orientated towards the rear section of the dwelling and garden area (which includes a single storey open car port). The single storey orangery extension is served by large bifold patio doors on the southern and eastern elevations, and a large rooflight. Taking into account the above, it is considered that an acceptable outlook would remain. There would be a degree of overshadowing from the proposed dwelling at plot 1, but it is not considered that the overshadowing or loss of light to habitable rooms or amenity space would result in significant harm to the residential amenity, taking into account the large extent of glazing on the extension; orientation of the dwellings; and modest height of the dwelling (eaves; 5m and ridge 7.5m with a small element at 8.6m) with a pitched roof away from the neighbouring property. In terms of privacy, plot 1 does include a first floor side window which would face 4 Eden Meadow which serves a bathroom and could be conditioned to be obscure glazed and non opening below 1.7m from the internal floor level to prevent overlooking. Therefore, it is considered that there would be no significant harm to the neighbouring amenity in terms of loss of light, overshadowing, outlook or privacy.
- 9.48 With regard to other neighbouring dwellings, the next closest neighbouring dwelling is 5 Eden Meadow to the north-east of plot 1, and there would be separation distance of approximately 22m between plot 1 and the flank wall of this neighbour. The plots would also be separated by the internal access road and footpaths. As such it is considered there would be no harmful impact on the residential amenities of this neighbouring dwelling.
- 9.49 In respect of the future amenity of these residential dwellings, each plot would have a garden depth of 10m or suitable size garden around the dwellings to provide sufficient amenity space. The separation distances between dwellings would meet the Councils standards of a rear-rear distance of 21m, and flank-rear distance of 11m. As such, it is considered each dwelling would have a suitable level of amenity.

Highways

- 9.50 The application has been supported by Transport Statement and has provided information to address comments raised by KCC Highways. KCC Highways raise no objection to the proposal in terms of traffic generation and wider impacts on the local network, subject to securing off site contributions, works and conditions as set out in paragraph 7.12 above. This includes a contribution towards A249/Key Street highway improvements to the value of £28,800, and off-site highway works to provide a 30mph village gateway on the A2 prior to the use of the site commencing.
- 9.51 The site would remain in private management, however KCC Highways have reviewed the submitted layout and have commented that the submitted swept path drawings demonstrate that refuse and service vehicles can negotiate the site; and that existing geometry of the junction and access route through the earlier Ellen's Place development is considered suitable to serve the proposed scheme, as the layout does meet the design parameters set out in Kent Design Guide for a residential street serving up to 50 dwellings as a cul-de-sac.
- 9.52 With regard to parking, the Parking Standards SPD provides advisory guidance in respect of car parking provision and recommends parking for rural locations as follows; 2 spaces per unit for 1 & 2 bed houses; 3+ spaces per unit for 3 bed houses; and 3+ spaces per unit for 4+ bed houses. The guidance also seeks 0.2 spaces per unit for visitor parking. The parking provision would comply with these requirements, and parking would either be provided on plot including surface parking spaces and within open car ports. Each dwelling would have three parking spaces through a mix of external surface spaces and open sided carports. Visitor spaces have been evenly distributed through the development.
- 9.53 National Highways raise no objection to the development in terms of impact upon the Strategic Road Networks, subject to a condition to restrict occupation until the proposed M2J5 improvements are completed.

Affordable Housing

- 9.54 Policy DM8 requires 40% of the total number of homes on this site to be delivered as affordable housing. This equates to 8 affordable homes, and the Affordable Housing Manager has noted the tenure split should be 7 affordable/social rented homes (90%) and 1 intermediate home (10%), and would comprise 1 x 2 bed unit; 5 x 3 bed units; and 2 x 4 bed units.
- 9.55 When the amended 20 unit scheme was submitted, the application documents referenced the difficulty in securing an RP for the low number of affordable homes and suggests an off-site contribution in lieu of delivery. A commuted sum/off-site contribution can only be considered with supporting evidence such as a viability report and reasoned proof from all RP's that they are unable to accept the s106 affordable homes. Actual affordable housing delivery will always be sought in the first instance, with off-site contributions only being considered in exceptional circumstance and with the support of clear evidence to substantiate this alternate need.

- 9.56 In this regard, the Affordable Housing Manager provided the applicant with a list of Registered Providers who operate in Swale. The applicant has subsequently provided information setting out that they received no viable offers from registered providers who were willing to take on these 8 affordable units. This is a situation widely found in the north Kent area where it is difficult to secure registered providers, being unable or unwilling to manage low numbers of affordable dwellings upon sites, which is a recurring theme across the Borough. The Affordable Housing Manager has reviewed the information regarding registered providers, and advises that a viability report will be required and independently assessed, and if this evidence supports the need for a commuted sum and all RP options are exhausted then that would have to be the option taken forward.
- 9.57 As a result of the above, this then leads onto a consideration of what level of financial contribution should be considered appropriate. The Council have sought an external assessment of a commuted sum figure for the off-site affordable housing. This has been produced by Pathfinder and sets out that an equitable commuted sum for the off-site provision of Affordable Housing would be £704,119.60 (£88,014.95 per unit). The external report has been reviewed by the Affordable Housing Manager who has advised they would be happy to accept the proposed sum for this site of £704,119.60.
- 9.58 As a result of this I am of the view that the principle of a commuted sum approach should be accepted here and would be in accordance with policy DM 8 of the Local Plan, allowing for the sum to be directed towards the delivery of affordable housing elsewhere in the Borough.

Developer Contributions

- 9.59 From the consultation responses received above, and in line with normal procedures for a development of this size, it would generate a requirement for financial contributions to deal with additional demand on local infrastructure. The contributions requested are as follows

- Secondary Education (£5176 per house)	£103,520.00
- Secondary Land (£2635.73 per house)	£52,714.60
- Community Learning (£16.42 per dwelling)	£328.40
- Youth Service (£65.50 per dwelling)	£1310
- Library Bookstock (£55.45 per dwelling)	£1109
- Social Care (£146.88 per dwelling)	£2937.60
- Waste (£183.67 per dwelling)	£3673.40
- NHS CCG (healthcare)	£22,572
- KCC Highways (A249/Key Street highway improvements)	£28,800
- Air Quality Damage Cost	£11,545
- Affordable Housing Commuted sum	£704,119.60
- Special Protection Area SAMMS (£253.83 per dwelling)	£5076.60
- SBC Refuse Bin Contribution (£105.90 per dwelling)	£2118
- Administration and Monitoring Fee TBC (5% is £46,991.21)
Total (without administration and monitoring fee):	£939,824.20

- 9.60 The applicant has agreed to pay these contributions and it is considered that they meet the relevant tests for planning obligations. The affordable housing commuted sum would be secured under a S.106 agreement for this site.
- 9.61 It is also considered that a Section 106 Agreement is the best mechanism for addressing the SAMM contribution (of £253.83 per dwelling), the details of which are set out under the subheading 'The Conservation of Habitats and Species Regulations 2017'

Ecology and Biodiversity

- 9.62 Paragraph 174 of the NPPF advises that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. It also advises that opportunities to incorporate biodiversity in and around developments should be encouraged. The application has been supported by an Ecological Assessment.
- 9.63 As set out in the consultation response KCC Biodiversity are satisfied the appropriate level of ecological survey work has been undertaken. The existing hedgerows and mature trees along the eastern and western boundaries would not be within the residential curtilage of properties which reduces future pressure for removal. A reptile receptor will be included in the application site (in the southern part which juts out), and KCC Biodiversity are satisfied that sufficient information has been provided to demonstrate that the receptor site will support the population. The reptile receptor site will not have public access to it. KCC Biodiversity are satisfied with the outlined mitigation measures, and recommend conditions to secure the following: reptile mitigation; Ecological Management Plan & Details (including management of the reptile receptor site); Ecological Ecological Enhancement Plan; Construction Management Plan; Bat Sensitive lighting Plan
- 9.64 With regard to the potential implications for the SPA and the requirements of the Habitat Regulations. As Members will be aware, the Council seeks developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA). The application site is within 6km of the SPA, situated approximately 3.6km from the closest part of the SPA and as such the Council seeks a mitigation contribution of £253.83 for each new dwelling. The proposal will result in a net gain of 20 dwellings which will result in a financial contribution of £5076.60 which will be secured via a S.106 legal agreement. An appropriate assessment is included later in the report, and a copy has been sent to Natural England.

Sustainable Design and Construction

- 9.65 The Council has declared a Climate Change and Biodiversity Emergency, and this is a material planning consideration. The application has been supported by an Energy Statement which demonstrates that the scheme can achieve a 31.3% reduction in CO2 emissions than required by Building Regs. Whilst this is below the 50% that Members have aspired to achieve, I consider that this is still nonetheless an improvement on the current Building Regulations, and in accordance with Policy DM19 of the adopted Local Plan (which does not set a minimum target). Members will also note the recent appeal decision at Wises Lane where the Secretary of state did not agree to impose a 50% reduction in emissions. If the application were recommended for approval conditions would be attached to secure the 31.3% reduction in CO2 emissions; to secure the

provision of electric vehicle charging points and ensuring a water consumption rate of no more than 110 litres.

Drainage / Flood Risk

9.66 KCC Drainage outlined they are satisfied that the SUDs design proposed will not increase the risk of flooding and raise no objection subject to further details sought via condition. These conditions include submission of a detailed surface water drainage scheme; and verification report pertaining to the surface water drainage system. Southern Water raise no objection subject to a condition securing occupation to be phased in line with the delivery of sewerage network reinforcement works (provided by Southern Water) and an informative regarding foul drainage. Therefore it is considered the proposed development would comply with policy DM21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and paragraph 165 of the NPPF.

Balancing Exercise and Conclusion

9.67 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise. This is reaffirmed in NPPF Para 47. S38 (6) affords the development plan primacy in determining the application. The Development Plan policies as a whole are not out of date and still carry significant weight. This is consistent with the Government's clear statement that the planning system should be genuinely 'plan-led.' (NPPF Para 15).

9.68 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires that, when considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses. In this context, "preserving", means doing no harm. It has been set out earlier that the public benefits from the proposal do not outweigh the 'less than substantial harm' caused to the setting of the Grade II listed building, therefore that harm features in the overall planning balance, having not been outweighed by the balancing exercise required by NPPF Para 202.

9.69 As the Council cannot demonstrate a five year supply of housing , the proposal would fall to be considered under paragraph 11 of the NPPF and a balancing exercise has been undertaken reflective of the above.

9.70 In terms of negative aspects;

- The proposal is, overall, considered to result in localised landscape and visual harm and would result in a clear encroachment into the open countryside.
- The proposal would not re-use Previously Developed Land;
- The development would cause less than substantial harm to the setting of a Grade II listed building and this harm is not deemed to be outweighed by the public benefits of the development;
- The above are considered to be significant negatives

9.71 In terms of the positive aspects;

- The provision of 20 houses at a time when the Council cannot demonstrate a five year housing land supply;
- A contribution towards affordable housing via commuted sum of £704,119.60 – albeit this would be for an off-site contribution;
- The modest positive benefits of improving the economic and social vitality of the area (during construction and through the introduction of new residents);
- Locational sustainability of the site
- Some fringe benefits would arise from some of the S106 financial obligations: only very limited weight would be given to these as S106 payments are there primarily to mitigate the impact of the development.

9.72 When assessed against para 11 of the NPPF, it is considered that the adverse impacts in terms of conflict with the environmental objectives of the Framework significantly and demonstrably outweigh the benefits of the proposal, even when the extent of the housing deficit is considered. As a result, I take the view that the proposal would fail to constitute sustainable development. As such, it is recommended that the application is refused.

10. RECOMMENDATION

REFUSE for the following reasons:

1. The proposed development would be located outside of the defined settlement boundaries of Newington and within the open countryside. The proposed development would result in localised landscape and visual harm through the development of built form and encroachment into the open countryside, and would fail to protect the intrinsic value and beauty of the countryside. This would be contrary to policies ST1, ST3 and DM24 and of the adopted Bearing Fruits 2031: Swale Borough Local Plan 2017 and paragraphs 130 and 174 of the National Planning Policy Framework.
2. The proposed development would further erode the rural setting to the vernacular form grade II listed building to the north of the application site, known as Ellen's Place, exacerbating the harm to its setting already caused by the Eden Meadow housing development allowed on appeal in 2017, by a further suburbanisation of its setting, notwithstanding the proposed landscape mitigation measures. The proposal would therefore fail to conform with Policy CP8 and Policy DM32 of the adopted Bearing Fruits 2031: Swale Borough Local Plan 2017 which advises, inter-alia, that planning permission for development proposals affecting listed buildings will be permitted provided that the building's setting will be preserved. When assessed against the National Planning Policy Framework (NPPF), it is considered that the aforementioned impact on the listed building's setting would amount to a less than substantial harm impact but that with reference to paragraph 202 of the NPPF, the harm in this respect is not outweighed by the limited public benefit which would arise from the proposed development.

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 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.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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

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

