

<b>2.4 REFERENCE NO - 21/505878/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of 5 no. three bedroom bungalows with associated garages, parking spaces and private amenity space. (Resubmission of 19/505353/FULL)		
<b>ADDRESS</b> Danedale Stables Chequers Road Minster-on-sea Sheerness Kent ME12 3SJ		
<b>RECOMMENDATION</b> Grant subject to conditions and SAMMS payment		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The site is located in a sustainable location, and overcomes the recent appeal decision by replacing two-storey dwellings with bungalows.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection		
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Mr Robert Sted-Smith <b>AGENT</b> Kent Design Partnership
<b>DECISION DUE DATE</b> 14/02/22		<b>PUBLICITY EXPIRY DATE</b> 31/01/22

**Planning History**

19/505353/FULL

Erection of 5no. four bedroom detached dwellings with associated garages, parking spaces and private amenity space.

Refused Decision Date: 16.11.2020 Dismissed on appeal

SW/02/0971

Outline application for erection of 4 dwellings.

Refused Decision Date: 09.10.2002 Dismissed on appeal

SW/84/0423

Outline application for one house

Refused Decision Date: 22.06.1984

SW/83/0540

Outline application for one dwelling

Refused Decision Date: 26.07.1983

SW/81/0181

Siting of caravan for a temporary period of 2 years

Refused Decision Date: 01.06.1981

SW/79/1473

Outline application for residential development

Refused Decision Date: 05.03.1980

**1. DESCRIPTION OF SITE**

- 1.1 The application site is roughly rectangular in shape, and extends to approximately 0.45 ha in area. It was previously in use as a stables, but is currently vacant. Established trees are located to the front of the northern boundary of the site, shielding some views of the site from Chequers Road. The site is largely covered in grass and rough scrub. Access to the site is provided from Chequers Road via a track that runs along the western boundary of the site. A stable block is located in the north western corner of the site, close to the access. Land levels change across the site quite dramatically, with land rising from north to south on the western side of the site. On the eastern side of the site is a drop in land levels, and land levels here are roughly at the same level as Chequers Road.
- 1.2 Immediately to the west of the site is a development site for nine dwellings approved under application 16/505623/FULL, which are currently under construction. To the south of that site is an undeveloped field which benefits from outline planning permission (20/500400/OUT) allowed on appeal for the erection of five dwellings. This site is also subject to a current planning application for nine dwellings (reference 21/505769/FULL) which is under consideration. To the rear (southern) boundary are open fields. There are a number of residential properties opposite the site, and No. 189 Chequers Road lies to the east.
- 1.3 The site lies opposite and adjacent to the built-up area boundary of Minster (the built up area boundary runs along the western and northern boundaries of the site), but falls within land designated as open countryside.
- 1.4 Members may recall that a previous application (19/505353/FULL) for development of 5 two storey dwellings on this site was refused by the Planning Committee in November 2020. The application was refused for the following two reasons:
  - 1) *The development is outside of the built up area boundary and the site's location within the open countryside would cause demonstrable harm to the value, landscape setting and beauty of the countryside, contrary to policies ST1, ST3, ST6, and DM24 of the Swale Borough Local Plan 2017.*
  - 2) *The site lies in a prominent location and the design and layout of the proposed development fails to respect the topography of the site or its countryside location. As such, the development would cause significant harm to the character and appearance of the streetscene, the countryside and the wider area, in a manner contrary to Policies ST1, CP4 and DM14 of the Swale Borough Local Plan 2017.*
- 1.5 An appeal was made against this refusal and this was dismissed in a very recent appeal decision. A copy of this is included in part 5 of this agenda (item 5.7). In summary, the Inspector considered the site to be well located in relation to services and in a sustainable location. However, the Inspector considered that the two storey dwellings would be sizeable and prominent, with ridge heights that would exceed the adjacent development under construction to the west. He ultimately concluded that the scale and massing would introduce a discordant built form to the locality that would be harmful to the character and appearance of the surrounding area.

## 2. PROPOSAL

- 2.1 This application was submitted prior to the outcome of the planning appeal and seeks planning permission for the erection of five detached bungalows on the site.
- 2.2 The proposed buildings will be arranged in a linear fashion, and consist of two house types, with minor differences in external treatment to each unit. The ridge height of the

dwelling ranges between 5.8m to 6.5m, and all of the units feature hipped roofs and projecting gable features on the frontage elevations. All of the bungalows would incorporate 3 ground floor bedrooms, whilst plots 2, 4 and 5 also incorporate an integral garage. Proposed external materials are red/yellow brick and white render, and grey slates. The floor plans indicate generously proportioned rooms with space for wheelchair storage.

- 2.3 The existing access to the site will be removed, and a more centrally located access is proposed, which will result in the removal of two trees on the grass verge to the front of the site. The proposed access incorporates sight lines in each direction on Chequers Road. The existing footpath that runs along the northern side of Chequers Road will be extended to ensure pedestrian access to the site is provided, and a footpath is also proposed in the north western corner of the site which will provide access to the footpath to be provided along the southern side of Chequers Road as part of the adjacent residential development. A shared access road running across the northern part of the site will provide access to the proposed dwellings. Parking will be provided to the front of the buildings at a rate of 3 spaces per dwelling at plots 1, 3 and 5, and 2 spaces per dwelling at plots 2 and 4 (in addition to the adequately sized garage at each property) with an additional visitor parking space being provided on the access road.
- 2.4 Each property will benefit from a rear garden ranging in depth from 9.5m (plots 1 and 5) to approximately 33m deep (plot 4), and all of the gardens are wide and provide generous and useable space for each property.

### 3. **PLANNING CONSTRAINTS**

- 3.1 Potential Archaeological Importance

### 4. **POLICY AND CONSIDERATIONS**

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

### 5. **LOCAL REPRESENTATIONS**

- 5.1 Five letters of objection have been received. Their contents are summarised below:
- Increased traffic and pollution will be created by the extra housing, due to inadequate public transport links and poor pedestrian access.
  - Poor infrastructure across the area - very limited schooling, employment and the worse patient to GP ratio in the United Kingdom.
  - To build in this area which is linked directly to an area of wildlife and waterway could cause contamination to the water source and the flood risk is too high.
  - The task for government and local authorities should first to address the poor housing that people are being forced to live in fix those first.
  - Historical applications at the site for housing have always been refused, including an application for stables. An application for housing was also dismissed at appeal.
  - Loss of equestrian land.
  - Developer has already cut down a large tree on the site.

- Only change between applications at the site is reduction from four bed dwellings to three beds.
- In order to create the new access, various Highways trees will need to be cut down, which form part of streetscene.
- Site is outside the built up area boundary – development is contrary to policy ST3.
- Site is in the countryside and will cause demonstrable harm to the value, landscape setting and beauty of the countryside.
- Fails to respect the topography of the site or countryside location.

5.2 One comment in support of the application has been received. Its contents are summarised below:

- Beautiful location for disabled bungalows to be built - would make a lovely retirement location for elderly or disabled occupants.
- Nice to see a builder thinking of what is required for an aging community.

## 6. CONSULTATIONS

6.1 Minster Parish Council object to the application, providing the following comments:

*“This proposal is contrary to the Swale Borough Policy ST3 [ the Swale settlement strategy} which aims to protect the character of the surrounding countryside and maintain the separation of existing settlements. The site is set in the open countryside outside the designated built-up area boundary. Minster-on-Sea Parish Council is adamant that this open land should be retained as such. If development is allowed, the area becomes pure ribbon development. Furthermore, the Parish Council is not impressed by the applicant's so called pragmatic approach to tree conservation and similarly unimpressed with the view that the impact of the proposal on the coastal Marine Protected Area (MPA) and RAMSAR Site can be mitigated by a cash contribution. Put simply, there is insufficient community infrastructure in this rural locality to warrant this development. One example is the lack of footpath provision. Additional concerns include the risk to any archaeology on the site.”*

6.2 Environmental Health – No objections subject to standard air quality condition relating to electric vehicle charging points. Contamination condition to ensure that if any contamination is encountered it is addressed. Standard conditions during the construction phase to protect the amenity of neighbouring residential properties.

6.3 KCC Ecology – Raise no objections to the scheme subject to conditions.

6.4 Natural England – The proposal will result in a net increase in residential accommodation, and therefore mitigation is required.

6.5 Southern Water – Request informative relating to the need for a formal application for a connection to the public foul and surface water sewer.

6.6 KCC Archaeology – *“The site lies on undeveloped elevated land on the isle of Sheppey which has considerable potential for early remains and in particular those of prehistoric date. This has been well illustrated by discoveries to the east of the present site at Kingsborough Farm where remains of two Neolithic camps, a bronze Age enclosure and several iron age enclosures were found amongst other remains. Investigations in Minster and at the Norwood landfill site have also revealed significant prehistoric and Saxon remains. Given the potential to impact on archaeology I would recommend that in any forthcoming consent provision is made for a programme of archaeological works.”*

- 6.7 KCC Highways – *“I therefore remain satisfied that the proposed vehicular access into the site is acceptable, and the provision of the footways on each side of Chequers Road are appropriate to provide links to the existing facilities on Danedale Avenue to the north. The scheme also retains the additional pedestrian connection from the northwest corner of the site to link onto the adjacent developer funded footway. This would negate the need for pedestrians accessing the development to cross Chequers Road twice in order to reach Elm Lane.*

*As before, KCC Highways Soft Landscape Team would accept the removal of the two established trees to make way for the vehicular access, on the basis that sufficient compensation is paid to cover the deficit to our asset following removal. This value will be calculated using the industry standard CAVAT (Capital Asset Value of Amenity Trees) method, and progressed through the subsequent technical approval processes and legal agreements with the Highway Authority that are required to permit works on the public highway.*

*The parking provision proposed for the revised house-types is in accordance with the Borough Council’s adopted parking standards, as these 3-bed dwellings would be provided with a minimum of 2 spaces, and I note that plots 1, 3 and 5 have in excess of this. Visitor parking also meets the required amount. Three of the plots also have garages in addition to the parking provision, and whilst these don’t count towards the overall parking numbers, they will be accepted as accommodating cycle storage. Plots 1 and 3 will therefore require alternative facilities to store cycles, as these plots do not include garages. Details for approval of cycle storage can be secured by planning condition in the normal manner, together with EV charging provision for each dwelling. Consequently, I would have no objections to the proposals in respect of highway matters subject to the following conditions...”*

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

- 7.1 Plans and documents relating to 21/505878/FULL and 19/505353/FULL, including the recent appeal decision.

## 8. **APPRAISAL**

### Principle of Development

- 8.1 The development site lies outside the built-up area boundary where policies of rural restraint generally apply. Policy ST3 of the Local Plan states that at locations in the open countryside outside the defined built-up area boundaries, development will not be permitted unless supported by national policy and where it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities. The impact of housing development in such locations does, in most circumstances, run contrary to this policy.
- 8.2 Members will be aware that Council cannot currently demonstrate a five-year housing land supply, and that on this basis paragraph 11 (d) of the NPPF advises that the local plan policies most important for determining the application should be considered out-of-date, and that a presumption in favour of sustainable development should apply – meaning that development should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole. Para 8 of the NPPF explains that achieving sustainable development comprises three overarching objectives (economic, social and

environmental), which are interdependent and need to be pursued in mutually supportive ways.

8.3 The recent appeal decision for 19/505353/FULL is highly relevant and is a material consideration that carries significant weight. In this respect, the following points from the decision are important –

- That in locational terms, despite being outside of the settlement boundary the site is well located in terms of proximity to services, of a scale appropriate to the settlement and lies within a sustainable location (para 21).
- That the erection of five dwellings would provide a limited contribution to housing supply but would nonetheless provide social benefits arising from this contribution (para 20).
- Access and parking arrangement would be satisfactory (para 21)
- The development would provide some economic benefits during construction and limited support to local services (para 21),
- The adverse impacts in respect of character and appearance would significantly and demonstrably outweigh the benefits, when assessed against the NPPF and are unacceptable (para 23).

8.4 Taking this into account, the key issue is whether this revised scheme has reduced the impacts on the character and appearance of the area to an acceptable degree. This is considered in further detail below.

#### Character and Appearance

8.5 The site is currently a largely undeveloped field, and the proposal will introduce a substantial built form within the site, which would significantly alter its character and appearance. In the appeal decision for the scheme under 19/505353, the Inspector noted that the proposal would be seen against the backdrop of adjoining development and the presence of this would enable the landscape to accommodate a degree of change. The Inspector also stated that the scheme would appear part of the linear development which extends along Chequers Road (Para 12). However the Inspector ultimately raised significant concern that that the two storey dwellings were sizeable buildings in footprint and scale, prominent from Chequers Road, and he drew attention to the proposed ridge heights compared to the adjacent development under construction (para 13). The Inspector concluded that the development would not respond positively to the character and appearance of the area, would be more visually intrusive than the stable block, and due to its scale and massing compete visually with the neighbouring dwellings under construction to the west, and was harmful for this reason and the wider rural landscape setting (paras 14 and 15)

8.6 I consider that the appeal decision does not rule out any form of residential development, but was critical in particular of the scale and massing of that scheme. This current application proposes 5 bungalows rather than two storey dwellings which are between 2.3m to 3m lower in ridge height when compared to the refused scheme, and this change naturally reduces the scale and massing of the development compared to the previous two storey scheme. The bungalows are suitably set back from Chequers Road and although the topography of the site and wider area means that levels are raised above the adjoining new development, the single storey development now proposed provides a much better visual relationship with this development. In my opinion this forms a more natural transition in building heights along Chequers Road rather than the more abrupt change in building height and scale between the refused scheme and the adjoining development which the Inspector criticised. On this basis I do

not consider that the development subject to the current application. would be overly prominent or compete with the overall scale and height of the adjoining development under construction to the west. The site is screened by the existing hedgerow and trees along the front boundary and conditions will require further landscaping to soften the development.

- 8.7 Taking all of the above into account, I believe the proposed bungalows are of more appropriate scale, mass and height, which pay greater regard to adjacent built form and its wider rural landscaped setting to the south. Whilst the development would still unavoidably change the immediate character of the site, I consider this to be in a less harmful way than the previous scheme and in a manner that has less impact on the surrounding rural landscape.

#### Residential Amenity

- 8.8 The proposed dwellings would provide a good standard of amenity for future occupants. Internal layouts are sensible and practical, and garden areas are generous. The positioning of the units in a linear design results in any residential amenity impacts between plots being minimal in my view. I note that plot 3 does project further rearwards of plots 2 and 4 by roughly 5.8m. However, taking into account the gap between properties and the limited height of the bungalows, I do not consider any overshadowing or overbearing impacts will be significantly harmful.
- 8.9 The properties will be located roughly 50m from No. 176 Chequers Road, to the north of the site. Due to this distance, I do not envisage there will be any material impacts to amenity at this neighbouring property. Similarly, due to the distances between the development and the closest dwellings to the east and west (30m and 20m respectively), I take the view the development will not cause unacceptable harm to the amenity of the occupiers of any existing dwellings in the vicinity.

#### Highways

- 8.10 The creation of the access in the centre of the site does result in the loss of two highway trees located on the grass verge to the front of the site. The applicant will be required to financially reimburse KCC Highways for the loss of the two trees, and the proposed landscaping scheme will also ensure replacement trees are planted within the site. KCC Highways are nonetheless satisfied with the access and its associated sightlines, and have no objections to the scheme, subject to conditions imposed below.
- 8.11 The two footpaths will provide pedestrian access to the site from both the northern and southern sides of Chequers Road. In order to protect the existing trees along the northern boundary of the site, the footpath will be extended along the northern side of Chequers Road, with an uncontrolled crossing point installed to provide pedestrian access to the site. A further footpath link is proposed in the north western corner which will link onto the adjacent developer funded footway. I am satisfied with this arrangement and include a condition below to ensure details of the footpaths and crossing are submitted to the Council.
- 8.12 Regarding parking provision at the site, the recently adopted SBC Vehicle Parking Standards SPD recommends three parking spaces are provided for a three bedroom house in this location. Plots 1, 3 and 5 provides three parking spaces on the driveway. Plots 2 and 4 provides two parking spaces on the driveway, as well as a single garage. Whilst garages are not always counted towards parking provision, I consider the parking provision at each property is adequate. In line with the SPD, 0.2 visitor spaces should be

provided per dwelling at the site. One visitor space has been provided and as such I am satisfied with this aspect of the proposal.

#### Landscaping

- 8.13 As set out above, two trees to the front of the site will be removed to create the access. KCC Highways will be compensated for the loss of these trees and taking into account the access has been carefully positioned to ensure that the existing trees of higher amenity value are retained, I do not consider the loss of two trees unacceptable. The council's tree consultant is satisfied with the amended Arboricultural Method Statement and considers that the trees to the front of the site will be adequately protected during the construction of the development. I include a condition below ensuring the methods outlined in this document are implemented on site. The plans show some indicative landscaping to the front of the site. Full details of the hard and soft landscaping at the site (which pays particular attention to the boundary treatment and lost trees at the front of the site) would be secured through the conditions set out below.

#### SPA Payment

- 8.14 Since this application will result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development there is no scope to provide on-site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £253.83 per dwelling. The agent has provided written confirmation that the applicant would be willing to pay this mitigation fee in principle. I have set out an Appropriate Assessment below.

#### Other Matters

- 8.15 KCC Ecology has no objection subject to the conditions set out below to ensure a precautionary mitigation strategy for Great Crested Newts, biodiversity enhancements and details of hedgehog holes are provided, as well as appropriate bat-sensitive lighting scheme within the wider site. These measures are secured via conditions.
- 8.16 The site lies within an area of potential archaeological importance, and KCC Archaeology have requested a condition is imposed requiring the submission of a programme of archaeological work. I consider this condition will address this matter and impose it below.

### 9. CONCLUSION AND BALANCING

- 9.1 The recent appeal decision is highly material to the consideration of this application. Although outside of the settlement boundary, the Inspector found the site to be in a sustainable location. The proposal will change the character of the site, although the bungalows now proposed are of a much reduced scale and massing, which in turn reduces the adverse impacts on character, appearance and rural setting that the Inspector identified. Whilst there would still be some harm to rural character by virtue of development of a predominantly open and undeveloped site, I consider this to be limited. Likewise the benefits are limited (as identified in paragraph 8.3 above). However, in applying paragraph 11(d) of the NPPF I consider that such harm would not significantly and demonstrably outweigh these benefits.
- 9.2 The proposed access is acceptable and will not cause harm to highway safety and convenience, and no other planning harm is identified.. As such I recommend this application is approved.



10. **RECOMMENDATION** – That planning permission is GRANTED Subject to payment of the SAMMS contribution to mitigate impacts upon the SPA and subject to the following conditions:

**CONDITIONS**

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

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

- a. The development hereby permitted shall be carried out in accordance with the following approved plans: 21.59.PL01, 21.59.PL1002, 21.59.PL02, 21.59.PL03, 21.59.PL04, 21.59.PL05, 21.59.PL06, 21.59.PL07 and 21.59.PL08.

Reason: In the interests of proper planning and for the avoidance of doubt.

2. No development shall take place until a programme for the control and suppression of dust during the construction & demolition phase has been submitted to and approved in writing by the Local Planning Authority. The programme shall include monitoring & mitigation details in accordance with the Institute of Air Quality Management (IAQM) Guidance on the Assessment of Dust from Demolition & Construction. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

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

3. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

4. The dwellings hereby approved shall be constructed and tested to achieve the following measure:  
At least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended);

No development shall take place until details of the measures to be undertaken to secure compliance with this condition have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

5. No development shall take place until a precautionary mitigation strategy for Great

Crested Newts has been submitted to and approved in writing by the Local Planning Authority. The works must be implemented during the construction works as detailed within the approved plan.

Reason: In the interests of biodiversity.

6. No development shall take place until details of operatives' and construction vehicles loading, off-loading or turning on the site has been submitted to and approved by the Local Planning Authority and thereafter shall be provided and retained throughout the construction of the development.

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

7. No development shall take place until details of parking for site personnel / operatives / visitors has been submitted to and approved by the Local Planning Authority and thereafter shall be provided and retained throughout the construction of the development. The approved parking shall be provided prior to the commencement of the development.

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

8. No development shall take place until details of disposal of surface water so as to prevent its discharge onto the highway has been submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

9. No development shall take place until a proposal to guard against the deposit of mud and similar substances on the public highway has been submitted to and approved by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

Reason: In the interests of amenity and road safety.

10. If works commence in or later than June 2022, an updated preliminary ecological appraisal and bat emergence survey must be carried out. The recommendations within the preliminary ecological appraisal and the bat survey(s) must be implemented as detailed within the reports prior to any works commencing.

Reason: In the interests of biodiversity.

11. No development beyond the construction of foundations shall take place until details of how the development will enhance biodiversity have been submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with hedgehog highways and provision of generous native planting where possible. The approved details shall be implemented prior to first occupation of the development and thereafter retained.

Reason: In the interests of biodiversity.

12. No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby

permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

13. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. Particular attention should be paid to the boundary treatment and the replacement of lost trees towards the road frontage.

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

14. If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed. Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;
  - a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
  - b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
  - c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To ensure any land contamination is adequately dealt with.

15. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:- Monday to Friday 0800 - 1800 hours, Saturdays 0800 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interest of residential amenity.

16. Prior to the occupation of the dwellings hereby permitted, details of secure, covered cycle storage for each residential dwelling shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first occupation of the development hereby approved.

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

17. The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the development hereby approved is first occupied, and shall be retained for the use of the occupiers of, and visitors to, the dwellings, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

18. The access details shown on the approved plans shall be completed prior to the occupation of any dwellings hereby approved, and the access shall thereafter be maintained.

Reason: In the interests of highway safety.

19. Prior to the occupation of the dwellings hereby permitted, details of the electric vehicle charging shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall then be implemented for each house before the dwelling in question is first occupied. All Electric Vehicle chargers must be provided to Mode 3 standard (providing up to 7kw). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:  
<https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

Reason: In the interests of encouraging sustainable modes of transport and minimising the carbon footprint of the development.

20. No dwelling hereby approved shall be occupied until the off-site works to provide footways along Chequers Road indicated on drawing 21.59.PL1002 have been carried out in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and pedestrian amenity.

21. Prior to the occupation of the development, a "lighting design strategy for biodiversity" for the site shall be submitted to and approved in writing by the Local Planning Authority.

The lighting strategy will:

- a) Identify those areas/features on site that are particularly important for bats;
- b) Show how and where external lighting will be installed in accordance with 'Guidance Note 8 Bats and Artificial Lighting' (Bat Conservation Trust and Institute of Lighting Professionals).

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and shall be maintained thereafter in accordance with the strategy.

Reason: In the interests of biodiversity.

22. Prior to the occupation of the development, details of a scheme to provide fence holes for hedgehogs shall be submitted to and approved in writing by the Local Planning Authority. The approved details will be implemented prior to first occupation and thereafter retained.

Reason: In the interests of biodiversity.

23. Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services and electrical services to be connected to any premises within the application site without resource to the erection of distribution poles and overhead lines, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Reason: In the interests of residential amenity.

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

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

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

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

26. The development must be carried out in accordance with the working methodology and tree protection measures recommended in the submitted Arboricultural Method Statement by Fellgrove (ref. 1796.01/FELLGORVE, updated 05/01/2022).

Reason: In the interests of visual amenity.

27. The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwelling shall not be occupied unless the notice for the dwelling of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability.

28. Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no gates, fences, walls or other means of enclosure shall be erected or provided in advance of the front walls of any dwelling.

Reason: In the interests of visual amenity.

### **INFORMATIVES**

- (1) The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defense against prosecution under this act. Trees, hedges and buildings are likely to contain nesting birds between 1st March and 31st August inclusive. Trees, hedges and buildings are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.
- (2) A formal application for connection to the public sewerage system is required in order to service this development. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link:  
<https://beta.southernwater.co.uk/infrastructure-charges>
- (3) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at  
<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

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

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

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

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

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

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

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

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

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

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

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

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (which will be secured prior to the determination of this application) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others (<https://birdwise.org.uk/>).

### **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.



