

**PLANNING COMMITTEE – 10 MARCH 2022****PART 2**

Report of the Head of Planning

**PART 2**Applications for which **PERMISSION** is recommended

<b>2.1 REFERENCE NO - 21/503441/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of dwelling of exceptional quality of design (Para 80e), new access and associated works.		
<b>ADDRESS</b> Walled Garden Mount Ephraim Staple Street Hernhill Faversham Kent ME13 9TX		
<b>RECOMMENDATION</b> - Grant SUBJECT TO receipt of a SAMMS tariff payment.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> An application which the Head of Planning considers is sufficiently major or raises difficult questions of policy interpretation or unusual or difficult issues which warrants Member determination.		
<b>WARD</b> Boughton and Courtenay	<b>PARISH/TOWN COUNCIL</b> Hernhill	<b>APPLICANT</b> Mr and Mrs Wallis <b>AGENT</b> Hughes Town Planning Consultancy Ltd
<b>DECISION DUE DATE</b> 13/09/21		<b>PUBLICITY EXPIRY DATE</b> 23/12/21

**Planning History**

None

**1. DESCRIPTION OF SITE**

- 1.1 The 0.7ha site is a vacant walled garden in an isolated rural location that was once associated with the Grade II listed Mount Ephraim House which is located 0.2km to the north west of the site on the opposite side of Staplestreet Road. The walled garden is a distinctive and important feature of the Staplestreet conservation area, which was designated in March 1992, with the application site lying close to the southeastern edge of the conservation area boundary. The walled garden lies just outside the parkland landscape of the grade II registered Mount Ephraim estate and within the immediate setting of this hugely important designated heritage asset. The very pleasing contrast between the parkland landscape and the markedly different hop and fruit growing area to the southwest effectively occurs at the junction of Staple Street.
- 1.2 This conservation area in turn lies wholly within a Area of High Landscape Value (Swale Level), reflecting the special landscape qualities of the rural landscape stretching from the north side of Boughton Street all the way up to Dargate, several kilometres to the northeast.
- 1.3 The parkland landscape around the estate home known as Mount Ephraim is grade II listed by Historic England and forms one of the Borough's four Registered Parks & Gardens, whilst the C19 estate home and associated Ha-Ha are grade II listed in their own right. The application site has no intervisibility with Mount Ephraim House and/or its

Ha-Ha due to a combination of mature tree cover associated with the historic parkland estate and the attractive undulating topography at this location. It does however lie directly opposite the historic redbrick wall which encloses the grade II registered parkland along its southern edge and frontage with Staplestreet Road. Staplestreet Road itself is designated as a rural lane because of its strong rural character across its entire length, including directly adjacent to the application site.

- 1.4 The site itself includes a former garden which is enclosed by a tall brick wall on all boundaries and adjoins Staplestreet Road to the north, with Mount Ephraim bungalow to the east and agricultural land to the south and west. The condition of the brickwork to the late Edwardian (c.1910) wall enclosing the application site is quite poor in many areas and this appears to be down to the inappropriate use of modern cement re-pointing.
- 1.5 The site currently includes a single storey brick building whose north east elevation forms part of the brick wall along the site's roadside boundary. Vehicular access is currently through a tall wooden gate directly onto Staplestreet Road and there are additional pedestrian gates along each wall.

## 2. PROPOSAL

- 2.1 Planning permission is sought for the erection of a single dwelling within the walled garden. The proposal consists of a single storey four bedroom unit constructed of brick, cladding and glazing. The new dwelling would be positioned in the north east quadrant of the walled garden with a series of ridged zinc roofs located adjacent to the existing high brick wall which surrounds the garden.
- 2.2 The proposal is overtly seeking approval contrary to Local Plan settlement policies in accordance with guidance in paragraph 80(e) of the NPPF regarding planning applications for isolated homes in the countryside, which reads as follows (omitting the irrelevant parts):

*“Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

*e) The design is of exceptional quality in that it:*

*Is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*

*Would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.”*

- 2.3 It should first be noted that paragraph 79 of the NPPF has recently been amended and re-numbered as paragraph 80 albeit the application refers to the previous numbering. Members should note that the word innovative has been removed from paragraph 80(e) and that this is no longer a factor which might support such a scheme. The proposal has been through two independent Design Review Panels prior to submission. The report for the later review in 2021 is attached as an Appendix to this item.
- 2.4 The proposed dwelling itself would have four bedrooms all with ensuite, a home office, utility, boot room, w.c, kitchen, larder, dining room, family area, living area and a study.
- 2.5 In addition to the dwelling itself, the application proposes a green house and bike store adjacent to the existing brick built structure, and also a pool area.
- 2.6 A significant part of this proposal comprises landscaping enhancements which include:

- Formal columnar trees
  - Fruiting trees
  - Species rich wildflower meadow
  - Species rich seasonal wetland planting
  - Species rich grassland
  - Seasonal attenuation pond
  - Shallow swale
  - Pottage garden
  - Linear small tree planting
- 2.7 The external terraces would be finished with clay red brick in a colour to closely match the proposed dwelling and respond to the existing walled structure. This material would also surround the proposed pool area which would be screened by formal yew hedges.
- 2.8 A new vehicular access would be opened through the existing wall on its eastern side to provide a new access with better visibility splays that would lead to a parking and turning area finished in porous natural aggregate. Three cars are shown on the proposed drawings although it is clear that more could be accommodated on the site.
- 2.9 The existing single storey brick built structure would be re-purposed as a workshop and potting shed.
- 2.10 The application is supported by a great number of drawings and statements from which I draw the following points:

2.11 **Design and Access Statement**

- *“The development proposals are the result of a detailed and through analysis of the site and surrounding area, informed by expertise in the architectural, landscape, ecological, heritage and planning fields. The fundamental objective of the proposals was to design a new house for the site that is of exceptional quality and innovative in its nature of design, reflecting the highest standards in architecture whilst being sensitive to the defining characteristics of the local area, and making a significant enhancement to its immediate setting. In the consideration of the development proposals, the constituent parts that in combination derive this scheme of exceptional quality cannot be disaggregated. They must be understood, read and addressed as a whole.”*
- *“The reasons as to why planning permission should be granted, in accordance with the development plan and other material policy considerations can be summarised as follows:-*
  - i. *The design is considered to wholly comply with para 80(e) of the NPPF in that it is truly outstanding or innovative, reflects the highest standards in architecture, and would help to raise the standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the area.*
  - ii. *Additional support for the principle of the development is set out in criterion (b) of paragraph 80 which also permits new isolated dwellings in the countryside where the development would represent the optimal viable use of a heritage asset.*
  - iii. *The proposal would result in the delivery of sustainable development and therefore, in accordance with Paragraph 11 of the NPPF, permission should be granted, subject to all other material considerations being satisfied. The*

*proposal is considered to accord with the Local Policy in respect of these material considerations.*

- iv. *The proposal is considered to comply with Paragraph 174 of the NPPF in terms of its protection and enhancement of an Area of High Landscape Value and would deliver a significant enhancement to its setting through the creation of a house of exceptional quality reflecting horticultural buildings, conservation and restoration of the walled garden, landscape design referencing the historic regular four quartered subdivision of the walled garden, and an enhancement to the character and appearance of the Conservation Area and to the setting of the Mount Ephraim House and its Registered Park and Garden, of which the site was once a part.*
- v. *The proposal would secure the retention and future conservation of a non-designated heritage asset that is in decline and better reveal the significance of the walled garden.*
- vi. *The proposal would deliver significant gains for biodiversity and ecology through a scheme of ecological mitigation and enhancement.*
- vii. *The proposed development would be truly outstanding in terms of its design, materiality and environmental sensitivity and is of the highest architectural standard, as well as being of innovative design – with reference to both the quality of the design process along with the outcome and its integrated use of sustainable features.*
- viii. *The traffic movements generated by the development can be accommodated without detriment to highway safety and the proposal includes adequate car parking provision and the retention of the important historic wall frontage and gated access along Staplestreet Road.*
- ix. *The proposal would deliver a betterment in terms of surface water run-off rates from the site through a SuDS scheme.*
- x. *The proposal would enhance the character and appearance of the landscape setting to Mount Emphraim Bungalow in views from Staplestreet Road, and in turn the character of the Rural Lane.*
- xi. *Other issues raised have been assessed and there are not any which would warrant refusal of the application, or which cannot be satisfactorily controlled by condition.”*

## 2.12 **Design Proposal (Part 5: Energy)**

- Investment in building envelope efficiency will allow the building to need and use less energy throughout the year
- A proposed minimum 300mm wall and roof insulation will trap heat within the building
- High air tightness level
- High performance triple glazed windows
- Mechanical Ventilation Heat Recovery (MVHR) system will be incorporated into the design which will recover over 90% of the heat from the stale air

- Dwelling has been designed so the majority of glazing faces from east to west picking up on the morning, midday and evening sun to maximise solar gains
- On the south elevation, high summer sun is controlled by the roof overhanging to reduce gains and prevent the building overheating
- High thermal mass will provide resilience to outside temperature fluctuations
- The most appropriate primary renewable technologies for the proposed dwelling are biomass and solar
- The predicted percentage reduction in emissions is 133% better than the target emission rate

#### 2.13 **Heritage Statement (Canterbury Archaeological Trust)**

- The proposed development presents little or no harm to the setting and intelligibility of heritage assets nearby and would fit within an already ongoing process of residential development of post-medieval agricultural buildings and landscape. Where the proposed changes do potentially affect the setting, mitigation can be achieved by the use of design and building materials that reflect those already in use in the environs, or characteristic of them, thus maintaining the intelligibility, and arguably adding to the character, of the setting. The use of careful planting will also be beneficial.
- In response to a consultation response from Swale Borough Council, which expressed the view that the walled garden should be considered a non-designated heritage asset in terms of its contribution to the historic landscape and the conservation area, and treated accordingly, we need to draw a clear distinction between viewing and valuing the walled garden generally as a significant landscape feature, and viewing the early twentieth-century wall that forms it as, per se, a significant heritage asset to be preserved in entirety and at all costs. The proposed changes will clearly have some impact on the fabric of the wall, through the removal of a section in order to create a safe vehicular entrance. The significance of the wall as a heritage asset in itself should not be overstated, however. Such a wall would scarcely if at all qualify for listing or designating further per se. Impact to its fabric can be mitigated by recording of the fabric, providing more information about the structure, and the process will also provide materials for the repair of damaged sections of brickwork elsewhere in the remaining walls. Any areas of wall needing removal should be recorded (photographic record by an archaeologist) prior to and during careful deconstruction.
- From the point of view of historic landscape and conservation area, our view is that the proposed new access through the wall, constructed in keeping with its early twentieth-century style, in no way denigrates the contribution of the entire walled garden to the wider landscape. Quite to the contrary, in fact, improved access to and therefore continued value and use of the walled garden (already modified over the years, after all), will help to secure its place in the local scene into the future.

#### 2.14 **Archaeological Desk Based Study**

- There is a chance that extant archaeological features, artefacts or ecofacts may be disturbed or destroyed by groundworks. The destruction of preserved archaeology without proper record risks a major negative impact on the historic environment.

- In order to mitigate potential impacts on the archaeological record, a watching brief on all groundworks associated with the development is considered an appropriate safeguard. Ceasing of site groundworks to allow more extensive archaeological mitigation should be retained as an option, in liaison with the County Archaeologist, in the event of intact and significant remains being encountered.

#### 2.15 **Landscape and Visual Impact Assessment**

- The proposal would fit with the scale of the landform by being low height and by following the contours of the hillside.
- The anticipated magnitude of the effect of the proposal upon topography and scale is considered to be Minor.
- The proposal would not harm or detract from any areas of natural habitat. Conversely the proposal ensures that the setting of the site enhances natural habitat resource through a number of measures including restoration of existing hedgerow, enhancement of grassland for species richness, new native hedgerows and a seasonal pond.
- The proposal introduces viable human activity and presence onto a site which would have been a focal point for horticultural activity serving Ephraim House. The proposal introduces a built structure of similar scale and proportions to greenhouses which existed on the site. The proposed landscape references elements within the registered parks and gardens at Ephraim House strengthening the cohesion between the proposal site and the origin of the walled garden.
- The decline and decay of the walled garden and its lack of viable use and management would be reversed. A small fruit orchard within the proposal would provide a conceptual connection with the surrounding orchards.
- The proposed development would emerge slightly above the perimeter wall which provides a high degree of visual enclosure when viewed from some locations. The proposed development would not interfere with the large houses that are visible on the skyline from certain view points.
- There are some southerly views on to the site from Bounds Lane from where the proposed dwelling, landscaped gardens and orchard would be visible.
- The effect of the proposal upon visual character is considered to be negligible.
- The proposal could result in slightly higher levels of human presence and activity which could be perceptible from the public right of way however the proposal would not significantly affect the perceptual and experiential qualities of the area as the site is bounded by a substantial brick wall which would screen the new residential use.

#### 2.16 **Bat Survey**

- No bats found to be roosting within the existing building.
- If a bat is found during conversion of the existing building then all works to the building should cease until further advice is sought from a licenced bat ecologist.
- External artificial lighting will be implemented in accordance with the guidance issued by the Bat Conservation Trust and Institute of Lighting Professionals.
- New planting will include climbing plants and herbs.

### 2.17 **Great Crested Newt Survey**

- Desk Study indicates that it is very unlikely that this species are present within the development site.

### 2.18 **Preliminary Ecological Appraisal**

- Planting around the building will include native, flower rich species, including those that flower in the late and early seasons to enhance biodiversity.
- Inclusion of climbing plants will add sheltering opportunities for invertebrates and birds. Which can also produce nectar rich flowers for butterflies, bees and hoverflies and fruit for birds and small mammals.
- The inclusion of herbs will provide nectar for an array of invertebrate species, including bees, butterflies and moths.
- The inclusion of plants that produce scent at night will attract night flying invertebrates and as such will provide foraging opportunities for bats.

## 3. **PLANNING CONSTRAINTS**

### 3.1 Potential Archaeological Importance

Conservation Area Staplestreet

## 4. **POLICY AND CONSIDERATIONS**

### 4.1 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies:

ST1 (Delivering sustainable development within Swale)  
ST3 (The Swale settlement strategy)  
CP4 (Design)  
CP8 (Conserving and enhancing the historic environment)  
DM14 (General development criteria)  
DM19 (Sustainable design and construction)  
DM24 (Conserving and enhancing valued landscapes)  
DM26 (Rural lanes)  
DM30 (Enabling development for landscape and biodiversity enhancement)  
DM32 (Development involving listed buildings)  
DM33 (Development affecting a conservation area)  
DM35 (Historic parks and gardens)

### 4.2 Supplementary Planning Guidance (SPG) entitled "Parking Standards" (May 2020) was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications. The recommended parking provision for this property is 3+ spaces.

### 4.3 The Council's Landscape Character and Biodiversity Appraisal (November 2011) sees the site set within the Hernhill and Boughton Fruit Belt which is described as:

- *This is a distinctive, small-scale, enclosed landscape situated in the vicinity of Hernhill and Boughton under Blean, west of the Blean Woodland complex. Predominantly a fruit producing area, it also contains isolated hop gardens and small arable fields.*
- *It is an area of mixed geology that includes numerous fertile drift soils, which are deep, well drained and support a mosaic of productive orchards and some hops*

*covering the distinctly folded topography. A strong but irregular field pattern, of small to medium-scale, is emphasised by the poplar windbreaks and mature hedgerows of mixed native species.*

4.4 Guidelines for landscape restoration and creation include:

- *Conserve the intimate landscape character formed by the small-medium-scale field pattern with a strong network of shelterbelts and hedgerows, together with woodland, orchard and hop cover. Additionally, look for opportunities, in localised denuded areas, to reinstate such features.*
- *Conserve the distinctive landscape character formed at the boundaries with other character areas, such as where orchard and pasture meet, or form, the setting to the Blean wood complex, or where rising ground immediately adjoins the Graveney Dykes.*
- *Use local and vernacular materials appropriate to the location: for boundaries - red (almost predominantly) stock brick walls, estate iron railings, chestnut diamond spine or hedgerows, for roofs - Kent-peg tiles and occasional thatch or slate and corrugated sheeting on outbuildings and for building walls – weatherboarding, tile hanging, timber frame and plaster infill, flint, red or yellow stock brick and white/ rendered painted brick, some stone and flint. For new hedges and hedgerow trees - hawthorn, hazel, field maple, dog rose and dogwood. For mixed-woodland or other planting - pedunculate oak, hornbeam, hazel and birch, scattered oak standards in open fields. Additionally, within developed areas – yew, older fruit tree varieties and beech, box, privet, holly or yew hedging. Shelterbelts – poplar. Other – mixed fruit orchard, hop gardens.*

4.5 The National Planning Policy Framework (NPPF): Paragraphs 8, 11, 80, 174, 194, 197, 202 and 205.

4.6 In response to this clear Local Plan position which indicates that a new house would not normally be approved here, this application scheme has been submitted with paragraph 80(e) of the NPPF in mind. This sets two tests for the possible exception to the normal policy of resisting the development of new isolated dwellings. these are that:

*The design is of exceptional quality in that it:*

*Is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*

*Would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

4.7 From research and a review of appeal decisions surrounding paragraph 80 house applications I conclude that there are a number of key points that should be borne in mind in assessing an application that aspires to be approved under the guidance of paragraph 80. These are:

- There are two strands to section e) of paragraph 80 and both must be satisfied. Outstanding design without accompanying landscape enhancement means that a scheme should not be approved under paragraph 80. Landscaping should not be seen as optional, or an afterthought.
- The first test in paragraph 80 e) of the Framework requires proposals to be truly outstanding.



- Paragraph 80 of the Framework is a material consideration that carries substantial weight but the starting point for the consideration of any proposal remains the adopted Development Plan. If a scheme is not exceptional the application should be determined in accordance with the Development Plan (Local Plan).
- Where a proposal does not comply with the locational policies of the Development Plan, for planning permission to be granted it must be shown to be of the exceptional quality required by paragraph 80 of the Framework and that this outweighs the conflict with the adopted plan.
- Paragraph 80 sets a high bar, and a favourable design review does not guarantee approval.
- Even if the building is not readily visible from public viewpoints, this does not reduce the need for the building to be of 'exceptional quality' in its intrinsic design if it is to be justified by paragraph 80.
- Materials used ought to be sympathetic to local character and history.
- Any new house reflecting the highest standards in architecture would be expected to fully maximise energy efficiency. Whilst excellent environmental build credentials are always a benefit, this does not in itself make a building one of exceptional quality, nor would it necessarily help raise the standards of design more generally in rural areas.
- The use of renewable energy systems would result in a low carbon home which would have sustainability benefits in terms of its own use of resources, but this does not necessarily show the use of ideas which are new or particularly original and creative.

## 5. LOCAL REPRESENTATIONS

### 5.1 The Faversham Society commented on the proposal as follows:

*"This scheme is well-designed and of a high quality and will respect the principle of a garden building. In addition, the large walled garden which is an important feature in Staplestreet would be restored with planting which will contribute to biodiversity in the area and the boundary wall retained.*

*The Society recognises the quality of the work that has gone into this application and enthusiastically supports it. A lot of talented, well-informed effort has gone into the preparation of this most interesting and innovative proposal".*

### 5.2 Five letters of support were received and can be summarised as follows:

- Fully supportive of the plans to build an eco-friendly and architecturally suitable house in the walled garden
- The plans look amazing and it seems an ideal way to ensure this beautiful space is used to its full potential
- As far as I can see there will be no impact on other local residents
- All for developing suitable plots of land to build new homes locally
- Would be a welcome addition to the Staplestreet streetscape and make good use of a vacant plot
- Exciting to see an application for an innovative, sustainable building in the village
- The development will ensure retention and protection of an historic structure
- The applicants/design team have developed an outstanding proposal that will add a unique family home to the existing collection of architecturally diverse properties along Staplestreet

- This will make a great use of a plot that has been crying out for something like this, and give the village/parish something that will be recognised as an asset in years to come

## 6. CONSULTATIONS

### 6.1 Hernhill Parish Council commented as follows:

*“The Councillors voted to support the application, noting its innovative architectural design and its siting which will help preserve the prominent feature of the walled garden along Staple Street. The council was also appreciative of the landscape plan that should increase the biodiversity.”*

### 6.2 Historic England did not wish to offer any comments.

### 6.3 Natural England is satisfied that subject to the appropriate financial contribution (SAMMs) the proposal will mitigate against the potential recreational impacts of the development on the SPA.

### 6.4 Kent Highways initially responded as follows:

- *The proposed access would be regarded as a betterment of the visibility that can be currently achieved at the existing access. However, further plans should be submitted which show the maximum achievable visibility in both directions from the proposed access. This should show that the splays cross land owned by the applicant or Kent County Council and do not cross third party land. To ensure the existing vehicle visibility is maintained, there should be no obstruction within the visibility splays over 0.9m above the carriageway level. The applicant should note that the existing access would need to be permanently stopped up, should this new access be approved.*
- *All dwellings with private off-street car parking should have an electric vehicle charging point installed and this should be shown on any further submitted plans.*

The planning agent then submitted an additional drawing 282\_DO\_PN\_3004 which Kent Highways were reconsulted on. They responded as follows:

*“Thank you for providing the further details and revised plans in relation to the above planning application. I am satisfied that the additional information provided addresses the concerns raised in my previous response. Consequently, I can confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority”*

### 6.5 Kent County Council Ecology commented as follows:

*“To mitigate against potential adverse effects on nocturnal wildlife, and in accordance with paragraph 180 of the National Planning Policy Framework 2019, we suggest that the Bat Conservation Trust’s ‘Guidance Note 8 Bats and Artificial Lighting’ is consulted in the lighting design of the development. We advise that the incorporation of sensitive lighting design for bats (and other nocturnal wildlife) is submitted to the local planning authority, as recommended in the ecology report, and secured via an attached condition with any planning permission.*

*Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation/structures that may provide suitable nesting habitats should be carried out outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests in use or being built. If vegetation/structures need*

*to be removed during the breeding season, mitigation measures need to be implemented during construction. This includes examination by an experienced ecologist prior to starting work and if any nesting birds are found, development must cease until after the juveniles have fledged*

*Under section 40 of the NERC Act (2006), and paragraph 180 of the NPPF (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2021, the implementation of enhancements for biodiversity should be encouraged.*

*With the proposed incorporation of wildflower meadow and wetland habitat establishment, the development can achieve meaningful net-gain. However, the species mix utilised must be native and managed in a specific (but minimal) way to ensure maximum biodiversity value.*

*To secure the implementation of the proposed enhancements, and associated management prescriptions, we advise that a condition is attached to any granted planning permission.”*

6.6 The County Archaeological Officer has commented as follows, and has suggested two planning conditions, which are set out as condition (3) and (4) below at the foot of this item:

*Thank you for consulting on the above proposed development of the Walled Garden at Stapestreet Road in Hernhill.*

*I note that the proposal includes an Archaeological Desk-Based Assessment (2019) and a Heritage Statement (2020) written by the Canterbury Archaeological Trust. I have reviewed both of these together with our own records.*

*In terms of archaeology predating historic maps, it is difficult to fully gauge potential in this area due to the lack of development led investigations or general archaeological research. There is a record of an Iron Age coin being found nearby, Watling Street follows the A2 to the south and the site lies on the slopes of a hill. A nearby hill has an earthwork shown on LiDAR plotting that may be a prehistoric monument.*

*In terms of the historical development of the site, the CAT study suggests that the area may have been enclosed from the 18th century. Certainly a property occurred adjacent from that time according to the Ordnance Surveyors drawings of the late 18th century. The Tithe Map of the 1840s which was not consulted by CAT shows that the present walled area forms part of a wider enclosed area. The apportionment identifies this as ‘Lower Hop Garden’ owned by a Mary Browning of Yew Tree Cottage and under cultivation by John Curling. I note that anecdotal evidence from the owners are that the Walled Garden itself was established in 1910 to serve Mount Ephraim. By the 1940s the site is shown on aerial photographs with subdivision of planting areas in its southern area and structures in the northern part. Most of the structures have since been demolished and cleared and the site laid to lawn. A brick building survives along wall and traces of the planting subdivision can be seen in lawn as parch marks on aerial photographs. CAT report that traces of former structures can be seen on the wall fabric.*

*I note that the proposals for the new dwelling include works that may affect the wall to form an access and I would suggest also to repair and clean where necessary. It would be appropriate as suggested to include in any permission a programme of historic building recording to record the fabric and features that may be affected.*

*With respect to buried archaeology, the background potential is not fully understood but groundworks could potentially affect early remains as suggested by the Trust. I would also suggest that there is potential for evidence of the early form of the garden and the planting to be buried within the site and visible in the wall fabric and that the development may impact on that. I would suggest that in any permission, provision is made for a programme of archaeological work rather than the watching brief suggested. The scope of such work would probably include targeted evaluation of the impact areas of the development.*

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

- 7.1 All plans and documents relating to 21/503441/FULL.

## **8. APPRAISAL**

- 8.1 The Council's Local Plan Bearing Fruits 2031 states that development proposals will be supported in accordance with the settlement hierarchy which is set out in Policy ST3. This identifies settlements in descending order of sustainability. Locations in the open countryside are the lowest settlement tier and this site is therefore ranked at the bottom in terms of where the Council wishes to direct new homes and jobs. For locations such as this, policy ST3 states;

*“At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, 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.”*

Accordingly, it is very clear to me, and it is accepted by the applicants, that this site is not one which would normally be seen as suitable for a new house, not least because of its remote location and poor access to services other than by private car. As such, it is doubtful whether this proposal can be considered to be sustainable, however energy efficient it might be. I would not normally expect to recommend approval of a new dwelling in this location.

- 8.2 Whilst other material planning considerations, including the aforementioned adopted Local Plan policies and local planning guidance will apply, because the application site for development plan purposes, is located on land considered as countryside and in a relatively isolated, non-sustainable location, the primary consideration in reaching a decision on this application is considered to be that which is in fact specifically referenced by the applicant as being paragraph 80 of the National Planning Policy Framework (NPPF) and in particular criterion (e) of that guidance paragraph. The key question then is the extent to which the application scheme meets the tests of paragraph 80(e) of the NPPF. The question then is not whether the design is good, or attractive, or shows good energy efficiency, but whether it meets the high bar of exceptional architecture as set out in paragraph 80.
- 8.3 Paragraph 133 of the NPPF advises that in assessing application, local planning authorities should have regard to the outcome from design review processes, including

any recommendations made by design review panels, and this effectively provides us with a clear starting position in reaching a judgement on this matter.

- 8.4 The January 2021 Design Review Panel assessment of the proposal concluded inter-alia that:

*Overall, the proposals work well in relation to their context; and the scale, height and massing are appropriate and also offer a strong visual response to the location. The important characteristics of the site and surroundings are clearly identified, also permeate into the design allowing the proposed dwelling and landscaping to make a positive contribution to the setting.*

*Notwithstanding the above, it is considered that the design proposals have not yet demonstrated that they have met all of the para 79 (e) [Sic] criteria, and there is felt to be a need to provide additional information and clarifications to be able to demonstrate compliance with the policy requirements. It is however considered that following further design development, that appropriately address the comments below [see relevant design considerations section below required to be addressed following 2nd design review meeting], the design does have the potential to meet the requirements of para 79 (e) of the NPPF.*

- 8.5 The critical thing here in my view, is to only support such very specific policy exception type developments where they respond strongly and creatively to their specific landscape context and ultimately have the very clear potential to create something rather special that can be valued not only by their owners but by the wider community; and also have the scope to become a positive talking point, and something which could be recognised as being of real value in any future landscape appraisal of the area.
- 8.6 The improved relationship between the character of the walled garden and its landscape context is best appreciated via the landscape masterplan drawing which indicates graphically how the combined design of the dwelling and the enclosed garden landscaping reflects the strong linear and terraced form of the surrounding horticultural landscape whilst adding some attractive contrasting elements to appropriately make the space within the enclosing walls distinctive and visually delightful.
- 8.7 The relationship between the outdoor spaces and the internal living spaces of the house has been improved since the pre-application submission and similarly has been worked up in terms of the detailed design as can be seen in the landscape masterplan drawing. This shows a geometric external terrace design to the exterior of the principal living spaces which would complement the striking stepped roof design and heavily articulated walling design, whilst also being reflective of the linear forms shown in the planted areas.
- 8.8 The design review panel in January 2021 advised that regarding the relationship of the building to the existing garden walls on the east side and the narrowness of the external space, it is noted the distance between the house and the garden has been slightly increased, also the windows have been re-orientated. This is an improvement on the earlier proposal, and subject to detailed design of the external spaces, including sensitive lighting design, this issue is considered to be capable of satisfactory resolution. It is now clear that whilst the specifics of the type of surfacing and planting to be used in the space between the building and the wall will need to be provided and agreed as part of a detailed landscaping and lighting scheme, which could reasonably be required by one or more planning conditions to supplement the detail already shown in the landscape masterplan drawing, the design evolution in this respect nevertheless further serves to illustrate that this proposed development is capable of delivering a good outcome that would represent the highest standards of architecture.

- 8.9 The space bounded by the walled gardens is open in character in the evolved landscape design, allowing the historic walls, together with the existing horticultural buildings, to provide three-dimensional structure and enclosure. The stronger linear and flowing design of the landscaping allows the space within the enclosing walls to feel more contained by the new and existing building and walls, thus making the design read as more contextually sensitive in its overall form.
- 8.10 Small form perimeter trees and orchard trees are now included within the evolved landscape design. Whilst these would not reflect the geometric form of the new building in the layout at ground level in isolation, in combination with a parallel series of Yew hedges and the associated use of contemporary prairie planting of perennials and grasses creating a contrasting seasonal effect, they would achieve this aesthetically desirable outcome.
- 8.11 A full heritage assessment has now been provided as have detailed landscape and ecological proposals. Some information has also been provided in relation to restoration plans for the existing garden walls. Whilst this is lacking in adequate detail and in particular does not provide survey information illustrating the extent of the brickwork which requires organic growth removal, partial replacement (where there are spalled bricks) and/or re-pointing in an appropriate lime-based mortar mix, it nevertheless provides a good starting point and I am satisfied following discussions with the applicant's agent that this important element could reasonably and sensibly be dealt with by means of a planning condition. The additional information in this respect would help to inform a long-term conservation management plan for the historic walls and associated potting shed building, which in parallel, could also appropriately be dealt with by means of a planning condition. The reference to Historic England's guidance note on 'Repointing Brick and Stone Walls' is entirely appropriate. Given how fundamental the wall setting is to this proposal, the provision of a conservation management plan presents a real opportunity to help ensure that the wall is repaired and maintained appropriately such that this important feature in the landscape, which forms the very unique context for this proposal is conserved for future generations to enjoy. More detailed consideration of and associated reference to this document including the clear benefits of a condition survey would assist in drawing up the restoration plans and conservation management plan for these condition related submission, which are considered to be critical given that the wall provides arguably the most important element of the unique setting for the proposed development, and without the wall, it is highly questionable whether a scheme of this nature could be supported in principle, in overall planning terms. To that extent I have some doubt that creating a large new vehicular access within the otherwise unbroken wall is the best way to conserve the wall, and I really don't see an overriding argument that says vehicles need to enter the walled garden other than for occasional maintenance or for construction, when the existing entrance might be used on these very occasional basis. However, this matter does not outweigh my overall conclusions on the merits of the scheme.
- 8.12 The provision of a section drawing and related CGI's (computer generated images) shows clearly how the glasshouse-inspired stepped roof forms will appear and will effectively step downwards from northeast to southwest in a complementary/reflective manner to the existing garden walls.
- 8.13 Visuals showing the vertical lines of the joints between zinc sheets have been provided to more strongly reference the three-dimensional form and materiality of greenhouse roofs, thus appropriately reinforcing one of the key design precedents/influences for the scheme.
- 8.14 The design review panel in January 2021 advised that regarding ecology, it may be beneficial for native (wetland, pond and meadow) species to be used within the relevant

areas to maximise the benefit in biodiversity terms. In this respect I note that the County Council's Ecology Team considers that sufficient ecological information has been provided and that there is no objection to the granting of planning permission from an ecology perspective subject to the imposition of two specific planning conditions which are set out below.

- 8.15 The design review panel in January 2021 advised that there may be an opportunity to create additional wildlife habitats by inclusion of bat and bird boxes within the proposed building, also through creation of reptile/amphibian hibernacula within the site/adjacent area. These opportunities for biodiversity gain for the proposed development have been picked up on in the evolution of the landscaping proposals for the scheme.
- 8.16 The design review panel commented that external lighting should be carefully considered in order to avoid negatively impacting biodiversity, particularly bats. The County Council's Ecology Team has expressed the view that the imposition of a planning condition is appropriate to deal with this aspect of the detailed design, and in the circumstances, I share that view.
- 8.17 A principal concern from the outset was and remains the need to limit harmful change to the late Edwardian period walls enclosing the area for the proposed new dwelling. Following ongoing liaison between the applicant's design team and the Highway Authority, it is now accepted that the existing gated vehicular access is not suitable as the means of vehicular access to/from the application site in relation to the proposed new dwelling. In the circumstances, it is recommended that this existing access if effectively stopped up so that it cannot be legitimately used with the existing gates retained, but permanently locked shut. The existing pedestrian gate on the road frontage could in my view continue to be used subject to appropriate caution by occupants of the proposed dwelling and their visitors, and in respect of creating the new replacement vehicular access to the enclosed area, it is critical that this is carried out in a way which is respectful of the distinctive character and form of the existing wall and retains the strong sense of enclosure that the wall currently provides.
- 8.18 A CGI visualisation of the proposed vehicular access gate has been provided however, it is unclear from this exactly what type of facing material and detailed design is intended, and as such this is a design aspect which would need to be dealt with by means of a planning condition.
- 8.19 The proposal has been a long time in the making and appropriately has been afforded a lot of thought and associated input from the applicant, the design team, the independent design review panel, officers and key external consultees.
- 8.20 Whilst there are still a number of outstanding design issues/details to be resolved these are relatively modest matters that can be dealt with by condition and do not raise any doubt about the capacity for outstanding quality and energy efficiency from the scheme or its ability to enhance the local landscape character and in turn the Staplestreet conservation area and the setting of the adjacent Grade II listed Mount Ephraim Estate.

## 9. CONCLUSION

- 9.1 Given the above, it is clear to me that this proposal is truly outstanding, reflecting the highest standards in architecture and one which would help to raise standards of design more generally in the rural areas and would significantly enhance its immediate setting, as well as being sensitive to the defining characteristics of the local area.
- 9.2 The design evolution from an initial idea to the beautifully illustrated and clearly thought through set of submission documents now forming the application indicates that we now have a very special proposal, which for the first time in Swale represents an NPPF paragraph 80(e) scheme worthy of support without reservation.

10. **RECOMMENDATION** - GRANT Subject to receipt of a SAMMS payment and 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.

- (2) The development hereby approved shall be carried out in accordance with approved drawings 4.1 Site Plan, 4.11 Floor Plan, 282\_DO\_PN\_3004, Proposed north & south elevation\_Rev A, Proposed west & east elevation\_Rev A.

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

- (3) Prior to commencement of development, the applicant, or their agents or successors in title, will secure 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) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of building recording in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that historic building features are properly examined and recorded.

- (5) Before preparation of any groundworks and foundations a detailed landscaping scheme shall be submitted to and approved by the Local Planning Authority. This shall include detailed information relating to the following:

- (a) All external hard surfacing materials
- (b) Means of enclosure, including height, materials and alignment
- (c) Written planting specifications, including cultivation and other operations associated with plant and grass establishment
- (d) Schedules of plants and trees, noting species, planting sizes and proposed numbers / densities where appropriate



(e) Implementation timetables.

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

- (6) 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 timetables approved by the Local Planning Authority.

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

- (7) 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.

- (8) Notwithstanding the submitted drawings and other documentation, a Landscape and Ecological Management Plan (LEMP) following the principles set out in British Standard 42020:2013 Biodiversity — Code of Practice for planning and development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The content of the LEMP shall include the following:

- (a) Description and evaluation of the landscape and ecological features to be managed.
- (b) Ecological trends and constraints on site and wider environmental issues that might influence management and the likely effects of climate change.
- (c) Landscape and ecological aims and objectives of the management.
- (d) Appropriate management options for achieving aims and objectives.
- (e) Prescriptions for management actions for each identified habitat and feature covered.
- (f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period) with recommendations for periodic review.
- (g) Details of the body or organization responsible for implementation of the plan and the resources both financial and personnel by which the LEMP will be implemented. This shall include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured post development with the management body(ies) responsible for its delivery.
- (h) Ongoing monitoring and remedial measures including regular review by accredited professionals including setting out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning landscape and biodiversity objectives of the originally approved scheme.

The approved plan shall thereafter be implemented in accordance with the approved details.

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

- (9) Prior to the commencement of development, a sample panel of the facing brickwork form to be used, together with a schedule and samples of the other external facing materials (including window frames and associated glazed sections) to be used, shall be made available on site for inspection by and approval by the Local Planning Authority. The approved materials and details shall thereafter be used in the implementation of the development.

Reason: In the interests of conserving the character of the conservation area.

- (10) Prior to the commencement of development, the following key construction details shall first have been submitted to and approved in writing by the Local Planning Authority:
- (a) 1:5 vertical section drawing showing the typical wall to roof junction detailing (including any rainwater goods and associated support brackets to be used);
  - (b) 1:5 vertical section drawing showing the typical detailing between the parallel, adjoining roof elements; and
  - (c) 1:5 vertical and plan section drawings showing the typical reveal detailing to the external windows and doors.

The approved key construction detailing shall thereafter be used in the implementation of the development.

Reason: In the interests of conserving the character of the conservation area.

- (11) Prior to the commencement of any relevant work, details of the design of new gate/opening in boundary wall, including that of the gates themselves and the construction and finishing of the new opening and any related piers or cappings shall be submitted and approved by the Local Planning Authority. Works shall proceed in accordance with the approved details.

Reason: In the interests of conserving the character of the conservation area.

- (12) Prior to the commencement of development, a scheme for the protection and phased restoration of the Edwardian period wall enclosing the bulk of the application site shall first have been submitted to and approved in writing by the Local Planning Authority. The details to be provided shall include a detailed schedule of work (based on a full condition survey provided by a conservation accredited building surveyor or architect), a timetable for the phased implementation of the approved restoration works, and details confirming the manner in which the existing Edwardian wall enclosure shall be protected during the construction of the new vehicular entrance. The wall protection and restoration scheme shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of conserving the character of the conservation area.

- (13) Prior to the first occupation of the dwelling hereby permitted, a conservation management plan setting out how the late Edwardian enclosure wall and associated (physically adjoining) workshop/potting/storage shed building shall be

maintained and conserved as visually critical elements within the Staplestreet conservation area and to the setting of the new dwelling and the adjacent grade II registered park & garden of Mount Ephraim shall first have been submitted to and approved in writing by the Local Planning Authority. The wall and adjoining outbuilding shall thereafter be maintained and conserved in accordance with the approved details.

Reason: In the interests of conserving the character of the conservation area.

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

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

Reason: In the interests of residential amenity.

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

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

Reasons: In the interests of residential amenity.

- (16) The dwelling 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 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.

- (17) Prior to the first occupation of the dwelling hereby permitted and prior to the installation of the relevant lighting elements/light fittings, a lighting design plan for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not adversely impact biodiversity. All external lighting shall be installed in accordance with the specifications and locations set out in the plan and maintained as such thereafter.

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

- (18) Within six months of works commencing, details of how the development will enhance biodiversity shall be submitted to the Local Planning Authority. This will include details, including future management prescriptions, of the wildflower and wetland habitat creation. The approved details shall be implemented and

thereafter retained in accordance with the approved details.

Reason: In the interests of encouraging wildlife and biodiversity.

- (19) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be adhered to throughout the construction period. The Plan shall provide for:

- (a) Routing of construction and delivery vehicles to / from site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries
- (d) Provision of wheel washing facilities

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

- (20) No occupation of the dwelling hereby permitted shall commence until the new access as shown on approved drawing 282\_DO\_PN\_3004 has been created, and the existing vehicular access has been permanently closed, in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

- (22) No unbound material shall be used in the surface treatment of the new vehicular access within 5 metres of the highway.

Reason: In the interests of highway safety.

- (23) The visibility splays shown on approved drawing 282\_DO\_PN\_3004 shall be provided prior to the first occupation of the dwelling hereby permitted with no obstructions over 0.9 metres above carriageway level within the splays, and these visibility splays shall thereafter permanently be kept clear of any such obstruction.

Reason: In the interests of highway safety.

- (24) The area shown on approved drawing 4.1 Site Plan as car parking spaces shall be kept available for such use at all times and no permanent development, whether permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

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

- (25) The cycle parking facility shown on approved drawing 4.11 Floor Plan shall be provided prior to the occupation of the dwelling hereby permitted.

Reason: To encourage the use of sustainable means of travel.

- (26) The dwelling hereby permitted shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and it shall not be occupied unless the notice 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.

- (27) The dwelling hereby permitted shall not be occupied until it has been provided with an electric vehicle charging point in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

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

- (28) The residential curtilage for the new dwelling hereby permitted, shall be confined to the area contained within the existing walls as shown on the proposed site plan.

Reason: In the interests of conserving the character of the conservation area.

- (29) Following the completion of the development hereby permitted no further buildings, structures or works, whether or not permitted by the provisions Classes A to H inclusive of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), shall be erected or undertaken on the site.

Reason: In the interests of conserving the character of the conservation area and to ensure that the quality of the development hereby permitted is not undermined by the exercise of permitted development rights and will continue to reflect the basis on which it has been permitted under NPPF paragraph 80(e) as a design of exceptional quality.

- (30) Notwithstanding the provisions of Part 2 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no gates, fences, walls or other means of enclosure shall be erected within the walled garden area except for the fencing/walling forming part of the approved landscaping scheme.

Reason: In the interests of conserving the character of the conservation area and to ensure that the quality of the development hereby permitted is not undermined by the exercise of permitted development rights and will continue to reflect the basis on which it has been permitted under NPPF paragraph 80(e) as a design of exceptional quality.

**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 (normally to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme

(SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others.

The Agent has confirmed agreement to pay the SAMMs fee subject to the outcome of the Committee.

### **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.

### **INFORMATIVE**

- (1) This permission has only been granted after receipt of a financial contribution to the Strategic Access Management and Monitoring Strategy in respect of the nearby Special Protection Area.

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.

