

<b>2.5 REFERENCE NO - 20/502715/OUT</b>		
<b>APPLICATION PROPOSAL</b> Outline application for the redevelopment of the site for residential use (All matters reserved).		
<b>ADDRESS</b> Bobbing Car Breakers, Sheppey Way, Bobbing, Sittingbourne, Kent, ME9 8QX		
<b>RECOMMENDATION</b> Grant subject to conditions and Section 106 agreement.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal development would result in benefits to the local environment in terms of landscaping, ecology and improved setting of the designated heritage asset. The proposal would make efficient use of a brownfield site and provide much needed housing, a proportion of which would be affordable. The benefits of the proposal would demonstrably outweigh the limited harm associated with the site's location in the open countryside.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Parish Council objection		
<b>WARD</b> Bobbing, Iwade, and Lower Halstow	<b>PARISH/TOWN COUNCIL</b> Bobbing	<b>APPLICANT</b> S & P Motors <b>AGENT</b> Peter Court
<b>DECISION DUE DATE</b> 23/09/2020	<b>PUBLICITY EXPIRY DATE</b> 14/07/2021	

### **Relevant Planning History**

19/500837/OUT

Outline application for the redevelopment of the site for residential use (All Matters Reserved).

The indicative layout suggested 26 dwellings would be delivered.

Refused Decision Date: 28.06.2019

#### **1. DESCRIPTION OF SITE**

- 1.1 The application site is located outside of a defined settlement. Sittingbourne sits to the east of the site by approximately 0.35km separated by the A249. The site has a closer relationship with the settlement of Iwade due to the access arrangements. Iwade is located to the north of the site by approximately 0.5km to the southern edge of the village.
- 1.2 Currently the site is used for commercial purposes operating as a car breakers yard with associated employment. The services offered include car breakers, tyre refurbishment, and parts/vehicle sales. The site contains a large degree of paraphernalia which is mainly comprised of stacked vehicles.
- 1.3 A number of single storey outbuildings are also located on the site mainly located to the eastern frontage slightly set back from the road. The buildings extend across the site frontage in a south/north trajectory. One of the buildings is located to the northern boundary to towards the rear of the site.
- 1.4 To the south of the application site a two-storey building with commercial/office building separates the site from a Grade 2 listed building (Pheasant Farm) which has a residential

use. To the north of the site a detached residential property is located, the dwelling is a chalet bungalow. To the west the open countryside extends comprised mainly of fields in an irregular pattern.

- 1.5 The application site is located within the 6km buffer zone of the Swale Special Protection Area (SPA). To the west of the site an allocated countryside gap extends in a north south trajectory separating Sittingbourne from the countryside to the west.

The site area is 0.98 hectares.

## **2. PROPOSAL**

- 2.1 The proposal seeks Outline Planning Consent for the redevelopment of the site for residential use with all matters reserved for future consideration.
- 2.2 Details of the access, layout, appearance, scale, and landscaping would be sought at reserved matters stage. The indicative plans have been submitted which show the site would be redeveloped to provide up to 16 residential units. The redevelopment of the site would result in the loss of the existing car breakers yard and demolition of the existing outbuildings.
- 2.3 The indicative site plan indicates that the proposal would be accessed via a single access point. The plan illustrates a mix of flat blocks, terraces, two semi-detached dwellings, and two detached units. No information regarding the number of bedrooms, elevations or floor plans have been provided. Sketch images indicate a mainly two storey development which has an informal rural pattern on development.
- 2.4 The planning statement has indicated that the site would provide a full quota of affordable units (40%).

## **3. PLANNING CONSTRAINTS**

- Outside of the Settlement Boundary,
- Grade 2 Listed Building located to the south of the site (Pheasant Farmhouse),
- Adjacent to, but outside, the Important Local Countryside Gap (DM25) located to the east of the site,
- Special Protection Area (SPA) 6km buffer zone,
- Brickearth – Swale areas.

## **4. POLICY AND CONSIDERATIONS**

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.2 Development Plan: ST 1(Delivering sustainable development), ST 3(Settlement strategy), ST 4(Development targets), ST 5(Sittingbourne area strategy), CP 1(Building a strong economy), CP 2(Promoting a strong economy), CP 3 (Delivering a wide range of home), CP 4(Requiring good design), DM 3(The rural economy), DM 6(Managing

transport demand and impact), DM 7(Vehicle parking), DM 14(General development criteria), DM 19(Sustainable design and construction), DM 21(Water, flooding and drainage), DM 24(Conserving and enhancing the landscape), DM25 (Countryside gap), DM 28(Biodiversity), DM 29(Woodland, trees and hedges), DM 32(Development involving listed buildings) of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 4.3 Supplementary Planning Document (SPD): ‘Swale Landscape Character and Biodiversity Appraisal 2011’, ‘Swale Borough Council Parking Standards Supplementary Planning Document’, Kent Minerals and Waste Local Plan 2013-30.

## 5. LOCAL REPRESENTATIONS

- 5.1 4 letters of support have been received. A summary of the points raised in the letters of support is set out below:

- The existing car breakers yard has large commercial buildings a change of use would improve the outlook from the Farmhouse considerably,
- Traffic from the car breakers yard can be an issue for the business located adjacent to the site (Waller Associates Limited. Vehicles parking very close to the driveway and causing risk to those pulling out of the premises of the adjacent business. The proposed use would alleviate this problem.
- The proposal would involve decontamination of the lad which would benefit the environment,
- Good use of brownfield site providing much needed housing to Sittingbourne,
- Development would hopefully be allowed under permitted development under the governments changes to planning laws,
- The proposal would enhance the environment around the Grade II Listed Building and provide better outlook form this property,
- Change of use would alleviate the number of vehicles that park on the main road,
- Some alleviation to noise as a result of the change of use

- 5.2 One objection has been received. A summary of the points raised in the objections is set out below:

- “No more housing in Swale”.

## 6. CONSULTATIONS

- 6.1 Bobbing Parish Council – ‘Although the number of properties has decreased, Bobbing Parish Council still has concerns that the density will actually increase when a full planning application is submitted. Further concerns are increased traffic, the impact on the strategic gap between the settlements of Bobbing and Iwade and that this is unsustainable development; public transport is almost non-existent, and residents will be car dependent’.

6.2 Affordable Housing Manager – *‘In accordance with Swale’s Local Plan and because this development is located in Bobbing, 40% of the dwellings should be delivered as affordable housing (7 homes), with the tenure split to be 6 affordable rented homes (90%) and 1 shared ownership home (10%). I note from the Indicative Site Layout, that 7 homes have already been noted as affordable but with no differentiation between tenures. The affordable homes offered should also be a reasonable and proportionate mix to the open market homes.*

- *I am happy to accept the location of the affordable homes on the development site.*
- *I can confirm that there is a need for all types and sizes of affordable housing in the Bobbing and Sittingbourne area, including wheelchair adapted housing and for this reason and because all of the units appear to be family sized homes, I would recommend that they are all delivered to M4(2) standard.*
- *Please also note that due to the small number of affordable homes due on this site, RP’s may be reluctant to come forward and accept the seven homes’.*

6.3 SBC Economic Development – *‘I’ve had a look at the report, which in itself provides a narrative but limited detail in terms of the marketing that was undertaken or about the viability issues about redevelopment. I am taking the statement that existing building are at the end of their life, at face value having looked at it on street view and given its age and length of occupation by the existing user.*

*The parallels with the Floplast site are hard to dispute and this site does face the same access issues and is away from the ‘mainstream’ employment sites which will impact on any potential values. As such I strongly suspect that they are right about the viability of redevelopment on the site.*

*I’m not sure under whose jurisdiction car breaking operations fall in terms of EH and safety, but just wondered whether it’s worth checking with EH about whether legislative requirements have changed in recent years, which has placed pressure on smaller sites in this use, as I have no way of knowing whether it is too small for the current market as stated in the document? Just a thought’.*

6.4 Natural England – 1<sup>st</sup> Comment – *‘Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound.*

*Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). However, our advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the [European Site’s conservation objectives](#) and in accordance with the Conservation of Habitats & Species Regulations 2017.*

*This is because Natural England notes that the recent [People Over Wind Ruling](#) by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of*

*the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can however be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site. Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context.*

*Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling. In accordance with the Conservation of Habitats & Species Regulations 2017, Natural England must be consulted on any appropriate assessment your Authority may decide to make.*

*Natural England has not assessed this application for impacts on protected species. Natural England has published [Standing Advice](#) which you can use to assess impacts on protected species, or you may wish to consult your own ecology services for advice.*

*Natural England and the Forestry Commission have also published standing advice on [ancient woodland and veteran trees](#) which you can use to assess any impacts on ancient woodland.*

*We recommend referring to our SSSI Impact Risk Zones (available on [Magic](#) and as a downloadable [dataset](#)) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>.*

*2<sup>nd</sup> comment – ‘Natural England has previously commented on this proposal and made comments to the authority in our letter dated 08 July 2020 (Our Ref: 320425).*

*The advice provided in our previous response applies equally to this amendment.*

*The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.*

*Should the proposal be amended in a way which **significantly** affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us’.*

- 6.5 KCC Minerals and Waste – 1<sup>st</sup> Comment – ‘Thank you for your email of the 24th June 2020. Having considered the details submitted with the application the County Council has the following matters it wishes to draw to your attention.

*The proposal has both land-won mineral and waste management facility safeguarding implications. The two matters are detailed separately below:*

**Land-won Mineral Safeguarding**

*The site has the safeguarded mineral Brickearth. Given that the area has been used for end of life vehicle dismantling for over 30 years with a hardened surface it is questionable if the brickearth material are likely to be economic, also the area itself is limited thus any prior extraction ahead of redevelopment of the site may not be economic in quantitative terms. However, the applicant should provide a Minerals Assessment (MA) that would assess these matters. If it is reasonable to conclude that there are no viable economic minerals at the site or that re-development of the land without prior extraction is justified the MA should demonstrate that it is in accordance with one or other of the exemption criteria as set out in Policy DM 7: Safeguarding Mineral Resources of the Kent Minerals and waste Local Plan 2013-30.*

**Waste Management Facility Safeguarding**

*The existing use of the site is a safeguarded waste management facility, for end of life vehicle (ELV) dismantling. Policy CSW 16: Safeguarding of Existing Waste Management Facilities of the Kent Minerals and waste Local Plan 2013-30 safeguards such sites from re-development to non-waste uses. The applicant should prepare and submit an Infrastructure assessment (IA) if it is to be argued that the loss of the facility is justified. The exemption criterion (5) of Policy DM 8: Safeguarding Minerals Management, Transportation, Production & Waste Management Facilities of the Kent Minerals and waste Local Plan 2013-30 allows for the exemption from the presumption to safeguard to be justified on economic non-viability grounds. Therefore, if this is advanced as an exemption justification Swale Borough Council will have to be satisfied that this has been objectively demonstrated. With a demonstration that the facility cannot be made to be viable for further ELV waste management.*

*Given that the submission to date is lacking the necessary information to address the above safeguarding matters the County Council objects to the application at this time’.*

*2<sup>nd</sup> comment - I can confirm that I have reviewed the information provided by Peter Court Associates regarding both the mineral safeguarding and waste facility safeguarding implications of the proposed redevelopment of Bobbing car Breakers.*

*The area of the site is limited (under 1 ha) and has been partially disturbed by the placement of a membrane, that and given the length of time the site has been used for a end of life vehicle dismantler (over 30 years) is persuasive evidence that any land won minerals have been disturbed and/or contaminated. Therefore, the potential for any useable brickearth or its viable prior extraction is so low that it can effectively be discounted. The County Council considers that on the evidence provided the balance of probability is such that exemption criterion (1) or (2) of Policy DM 7 can be invoked.*

*With regard to the safeguarding of the was facility Peter Court Associates states:*

*“I am informed that that the Environment Agency has sought to shut down my client’s breakers yard for the reasons, of alleged lack of membrane over part of the site. However, due to the very limited size of the site, it is simply uneconomic for any owner to undertake such works and effectively re-build the entire operation. Indeed, and as set out in the Employment Land Report by Sibley Pares Chartered Surveyors that*

*accompanied the planning application, no operator was interested in acquiring the site as it was too small to be economic for its existing use. The minimum size they required was three ha (seven acres.) Finally, it should be pointed out that the Environment Agency has not objected to the application.”*

*The County Council considers that this additional information adequately demonstrates that the applicant has attempted to retain this safeguarded waste facility, despite difficulties in meeting modern environmental pollution control legislation as enforced by the Environment Agency. This has proved to be not possible given the site lacks sufficient space to justify the capital investment to meet these modern standards. In short, the continued operation of the site is not viable, and cannot be made so. Therefore, the exemption criterion (5) of Policy DM 7 can be considered to have been met.*

*I hope the above will be useful in the determination of this application. Do not hesitate to contact me if you wish to discuss any matters further’.*

- 6.6 KCC Biodiversity Officer – 1<sup>st</sup> comment – ‘No ecological information has been submitted with this application. As a result of reviewing the data we have available to us (including aerial photos and biological records) and the information submitted with the planning application, we advise that current photos of the site must be submitted to enable us to consider if there is a need for ecological information to be submitted.

*The majority of the site is hard standing but there is a number of buildings proposed for demolition and therefore there is a need to consider if they contain suitable features to be used by roosting bats. The site is surrounded by a mature hedgerow (which we assume are to be retained) and therefore providing opportunities for bats to access the site. We require current photos of the buildings proposed for demolition to be submitted to enable us to consider if there is a need for a preliminary ecological appraisal (PEA) to be carried out.*

*If required, the PEA will assess the habitats and features within and around the site and identify if there is a need for further ecological surveys to assess ecological value and/or confirm protected species presence/likely absence. The PEA report, OR, if further surveys are recommended, an Ecological Impact Assessment (EclA) report, detailing all surveys and outcomes, will be required to be submitted as part the planning application.*

*This is in accordance with paragraph 99 of ODPM 06/2005 which states: “it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision”. An EclA is a process of identifying, quantifying and evaluating the potential effects of development on habitats, species and ecosystems, so providing all ecological survey information alongside any necessary avoidance, mitigation and compensation proposals within one document.*

### **Designated Sites**

*The development includes proposals for new dwellings within the zone of influence (6km) of The Swale Special Protection Area (SPA) and Wetland of International*

*Importance under the Ramsar Convention (Ramsar Site). Swale Borough Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.*

*A recent decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full ‘appropriate assessment’ is needed under the Habitats Directive. Therefore, we advise that due to the need for the application to contribute to the North Kent SAMMS there is a need for an appropriate assessment to be carried out as part of this application’.*

*2<sup>nd</sup> Comment – ‘We have reviewed the Ecological Appraisal, including a bat emergence survey, and we are satisfied that sufficient ecological information has been submitted to determine the planning application.*

*The submitted survey is now nearly 2 years old but due to the habitats on site we are satisfied that the conclusions are likely still to be valid.*

*We are satisfied with the conclusions that the proposed development site has limited potential to be used by protected/notable species and there is no requirement for a detailed mitigation strategy to be produced as part of this application.*

*The report has detailed that there is some potential for the site to be used by commuting badger and hedgehog and breeding birds may nest within the site but we are satisfied that impacts on these species can be avoided through the implementation of the precautionary mitigation detailed within Section 9 of the report. We advise that we don’t require a specific condition requiring the implementation of the precautionary mitigation but instead recommend that it is included within the construction management plan.*

*We advise that the condition for the construction management plan must specifically require the inclusion of the precautionary mitigation detailed within section 9 of the Ecological Appraisal; Native Ecology; September 2018.*

### **Lighting**

*The bat emergence survey recorded low numbers of common pipistrelle bats and noctule foraging/commuting within the site and artificial lighting can negatively impact bats. Therefore we recommend that any lighting condition requires the lighting plan to demonstrate the recommendations within the Bats and artificial lighting in the UK document (Bat Conservation Trust and Institution of Lighting Professionals) have been implemented. <https://cdn.bats.org.uk/pdf/Resources/ilp-guidance-note-8-bats-and-artificial-lighting-compressed.pdf?mtime=20181113114229>*

### **Designated Sites**

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*approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.*

*A recent decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full ‘appropriate assessment’ is needed under the Habitats Directive. Therefore, we advise that due to the need for the application to contribute to the North Kent SAMMS there is a need for an appropriate assessment to be carried out as part of this application.*

### **Ecological Enhancements**

*One of the principles of the National Planning Policy Framework is that “opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity”. The ecological appraisal has made recommendations to enhance the site but they are not reflected within the site plan. We advise that if planning permission is granted a condition is included requiring the submission of an ecological enhancement plan – suggested condition wording at the end of the report.*

### **Condition recommendations**

#### *Precautionary Ecological Mitigation*

*The precautionary mitigation within Section 9 of the Ecological Appraisal (Native Ecology; September 2018) must be included within Construction Management Plan to ensure it is implemented.*

#### *Lighting*

*The lighting condition requires the lighting plan to demonstrate the recommendations within the Bats and artificial lighting in the UK document (Bat Conservation Trust and Institution of Lighting Professionals) have been implemented. <https://cdn.bats.org.uk/pdf/Resources/ilp-guidance-note-8-bats-and-artificial-lighting-compressed.pdf?mtime=20181113114229>*

#### *Ecological Enhancements*

*Prior to occupation an ecological enhancement plan, must be submitted for approval in writing by the LPA, detailing what ecological enhancements will be incorporated into the site. The plans must be incorporated into the site as detailed in the approved plan’.*

*3<sup>rd</sup> comments – ‘Our comments dated 4th August 2020 are still valid – we have no further comments to make’.*

*Environment Agency – 1<sup>st</sup> response – ‘Thank you for your consultation, which we received on 24 June 2020. Our previous comments apply. I have attached them below for your convenience.*

No objection is raised subject to the imposition of four conditions. Members will note conditions 19, 20, 21, 22, 24, 25, 26 below. Some of the conditions are also reflective of Environmental Health condition requests.

*Without these conditions we may object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development will cause or be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.*

**Site specific information**

*The previous use of the proposed development site as a car breakers yard presents a high risk of residual contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are sensitive in this location because although the proposed development site is located upon unproductive strata, local water courses/ditches could be impacted by release of contamination during construction works.*

*The reports submitted in support of this planning application provides us with confidence that it will be possible to suitably manage the risk posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. It is our opinion that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the Local Planning Authority.*

The EA have also requested an informative, which is included below.

2<sup>nd</sup> Comment – ‘Thank you for consulting us on the above application. We don’t have any further comments to add to our previous response dated 8 July 2020’.

3<sup>rd</sup> Comment – ‘Thank you for your consultation. **We have no objection to the proposal subject to conditions.** These are included below.

- 6.7 Environment Agency – 1<sup>st</sup> response – ‘Thank you for your consultation, which we received on 24 June 2020. Our previous comments apply. I have attached them below for your convenience.

No objection is raised subject to the imposition of four conditions. Members will note conditions 19, 20, 21, 22, 24, 25, 26 below. Some of the conditions are also reflective of Environmental Health condition requests.

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3<sup>rd</sup> Comment – ‘Thank you for your consultation. We have no objection to the proposal subject to conditions. These are included below.’

6.8 KCC Highways – 1<sup>st</sup> Comment – *‘I refer to the above planning application and would comment as follows with respect to highway matters:-*

*The application is made in Outline form, with all matters reserved, including access, although the submitted indicative layout plan does suggest what form the access to the site will take. As opposed to the previous application on this site that was refused, reference 19/500837/OUT, the indicative plan now proposes just the single vehicular access point serving the whole development, with all dwellings subsequently accessed directly from the internal road layout. This would address the concern previously raised regarding some houses having direct vehicular access onto Sheppey Way without adequate turning space to allow vehicles to enter and exit the classified road in a forward gear, and this would also reduce the likelihood of on-street parking occurring on that section of the existing highway.*

*I am satisfied that the level of vehicular activity associated with a proposed development of 16 dwellings would not be considered severe, under the terms of the NPPF, particularly when compared against the current commercial uses on the site as a car breakers and vehicle recovery business. The submitted transport statement has referenced a development of up to 16 dwellings, as per the indicative layout, but I note that the application description and the text within the planning statement merely seek residential uses. The Highway Authority response assumes a development of 16 dwellings, so I would ask that any approval of this application does restrict the amount to no more than that figure.*

*The consolidation of the exiting accesses along the site frontage would reduce the proliferation of access points that currently dominates the highway environment. This will focus all the movements associated with the site into a single point and decrease the opportunity for conflicting turning movements. Whilst the transport statement suggests that the sightlines calculated from the speed survey data would be available, I also appreciate that the proposed access location is already used in connection with the commercial operations, and the proposed use is likely to generate less activity. The access location and sightlines are therefore considered acceptable, although the design of the junction itself would need to be refined at the reserved matters stage, as I consider that the initial access road width should be 5.5m in this instance instead of the 4.8m*

*indicated. As all matters are reserved, this amendment would not be required as part of the current application.*

*In order to provide pedestrian and cycle links from the development to local amenities and the wider community, a footway is proposed along the site frontage, extending south across the front of Pheasants Farmhouse, and the continuing further south on the eastern side of Sheppey Way to connect to the existing footway and Bramblefield Lane. This would provide a pedestrian route of approximately 1km to access the shops and train station in Kemsley. However, although the proposals suggest the provision of an on-carriageway cycle route along Sheppey Way by means of advisory cycle lanes, this does not align with the existing aspirations of this Authority to provide an off-carriageway footway/cycleway between Bobbing and Iwade. In order to accommodate this, it will be expected that the proposed footway should be designed as a shared footway/cycleway measuring a minimum of 3m wide.*

*Although the site is just within the 400m walking distance of existing northbound bus stops, it is located 550m from the southbound bus stop. It would therefore be appropriate to consider the provision of additional stops that would be more convenient to serve this development.*

*Consequently, I would have no objection to the proposed development and 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:-*

The conditions and informatives requested by KCC Highways and Transportation have been included below, and in that regards Members will note conditions (8, 9, 12, 13, 14, 15, 16), and informative 1.

6.9 Southern Water – 1<sup>st</sup> Comment - *Please see the attached extract from Southern Water records showing the approximate position of our water mains in the immediate vicinity of the development site. The exact position of the public assets must be determined on site by the applicant.*

- The public water main requires a clearance of 6 metres on either side of the water main to protect it from construction works and to allow for future access for maintenance.
- No excavation, mounding or tree planting should be carried out within 6 metres of the external edge of the public water main without consent from Southern Water.
- No new soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public water main.
- All existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works.

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. We request that should this application receive planning approval, the following informative is attached to the consent:

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 is available to read on our website via the following link: [southernwater.co.uk/developing-building/connection-charging-arrangements](https://southernwater.co.uk/developing-building/connection-charging-arrangements) Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer. The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SuDS).

Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDs component, adoption will be considered if such systems comply with the latest Sewers for Adoption (Appendix C) and CIRIA guidance available here: [water.org.uk/sewerage-sector-guidance-approved-documents/ciria.org/Memberships/The\\_SuDS\\_Manual\\_C753\\_Chapters.aspx](https://www.water.org.uk/sewerage-sector-guidance-approved-documents/ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx)

Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system. Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SuDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development. The consent of the Highway Authority will be required for the proposed discharge to the Highway drain.

We request that should this application receive planning approval, the following condition is attached to the consent: "Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

*2<sup>nd</sup> comment - Further to our previous response dated 14/07/2020 and additional information provided by the developer regarding on-site drainage. Southern Water have following comments.*

*At Planning Consultation stage, we refer to the interests of other Parties with regards to Surface Water disposal principles including the Environment Agency and Lead Local Flood Authority (LLFA).*

*If connection to a foul sewer proves to be the only viable means of disposal and should we have no option but to accept such discharge, then it should be at a discharge rate set by the LLFA in consultation with Southern Water.*

*Southern Water has undertaken a desktop study of the impact that the additional foul and surface water sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that these additional flows may lead to an increased risk of foul flooding from the sewer network. Any network reinforcement that is deemed necessary to mitigate this will be provided by Southern Water.*

*Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement.*

*It may be possible for some initial dwellings to connect, pending network reinforcement. Southern Water will review and advise on this following consideration of the development programme and the extent of network reinforcement required. Southern Water will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable us to establish the extent of any works required.*

*Southern Water endeavour to provide reinforcement within 24 months of planning consent being granted (Full or Outline) however for large developments our assessment of the timescales needed will require an allowance for the following which may result in an extension of the 24 month period:*

- Initial feasibility, detail modelling and preliminary estimates.*
- Flow monitoring (If required).*
- Detailed design, including land negotiations.*
- Construction.*

*Southern Water hence requests the following condition to be applied: Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development. All other comments in our previous response 14/07/2020 remains valid.*

*3<sup>rd</sup> comments - 'The comments in our response dated 26/05/2021 remain unchanged and valid for the additional details'.*

- 6.10 Kent Police – 1<sup>st</sup> Comment – *'We have reviewed this application in regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF).*

*As the application progresses, applicants/agents should consult us as local Designing out Crime Officers to address CPTED. We use details of the site, relevant crime levels/type and intelligence information to help design out the opportunity for Crime, Fear of Crime, Anti-Social Behavior (ASB), Nuisance and Conflict.*

*Secured by Design (SBD) [www.securedbydesign.com](http://www.securedbydesign.com) is the UK Police flagship initiative, to meet SBD physical security requirements, doorsets and windows must be certified by an approved independent third-party certification body e.g. (UKAS). This exceeds ADQ who require PAS 24: 2012 tested, that has been superseded. Products that are independently certificated to recognised security standards have been responsible for*

*consistently high reductions in crime as verified by numerous independent academic research studies. New development provides an opportunity to address the carbon cost of crime.*

*If this application is to be approved we require a Condition to be included to address designing out crime and show a clear audit trail for Design for Crime Prevention and Community Safety to meet our and Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998.*

*Cul-de-sacs that are short in length and not “open or leaky” by being linked to other areas by cycle routes or footpaths for example, can be very safe environments where residents can benefit from lower crime.*

- 1. Development layout to maximise natural surveillance.*
  - 2. Perimeter treatments can include densely planted hedging in certain areas of the plan.*
  - 3. Corner Properties and any ground floor bedroom windows will require defensible space.*
  - 4. Parking spaces require “active” windows so that the owners can see them.*
  - 5. Lighting to be designed to provide security without creating light pollution.*
  - 6. Doorsets and ground floor windows to meet PAS 24: 2016 certified standards.*
- We welcome a discussion with the applicant/agent about site specific designing out crime. If the points above are not addressed, they can affect the development and local policing.*

*This information is provided by Kent Police DOCO’s and refers to situational crime prevention. This advice focuses on CPTED and Community Safety with regard to this specific planning application’.*

*2<sup>nd</sup> Comment - The points below are in addition to our previous response dated 14 July 2020. We recommend;*

- Boundary treatments to be a minimum of 1.8m in height, with support beams facing inwards to prevent the creation of a climbing aid. Any rear access gates must also be lockable from both sides and positioned flush to the building line.*
- Parking spaces require surveillance from active windows i.e. living room or kitchen.*
- We generally advise external lighting be to BS5489:1:2020. Furthermore, installation of external lighting to the main entrances of all dwellings will avoid the potential for the future conflict/ nuisance caused by occupiers fitting their own lighting, whilst also reducing fear of crime and improve personal safety.*
- Doorsets and ground floor windows to meet PAS 24: 2016 certified standards or similar*

*For further guidance please see SBD Homes 2019’.*

6.11 KCC Education – *No response.*

6.12 UK Power Network – *No response.*

6.13 NHS Swale – *No response*, though as Members will be aware the NHS do not request contributions for schemes of less than 20 dwellings.

6.14 Lower Medway Drainage Board – *No response.*

6.15 Greenspaces Manager – *No response.*

6.16 Kent County Council Flood and Water Management – 1<sup>st</sup> Comment –

*Kent County Council as Lead Local Flood Authority have the following comments:*

*The application is for the construction of 16 residential dwellings on approximately 1ha brownfield site. The application is supported by a Drainage Strategy report (Herrington, June 2020). The means for the discharge of surface water runoff is not conclusive, however the report outlines a number of proposals for the discharge of surface water runoff, namely, into existing highway drainage network or into existing foul water drainage network.*

*As the site is previously developed there is less risk associated with the uncertainty of determination of the final discharge destination. It is strongly recommended that this is ascertained before progressing to full drainage design.*

*Should your local authority be minded to grant permission for this development, we would recommend the following conditions:*

*Reserved Matters:*

*No development shall take place until final discharge of the surface water drainage from the site is determined. Sufficient evidence shall be presented to demonstrate the feasibility of the final drainage strategy (final discharge destination) including any consents that may be required from relevant authorities.*

*Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water.*

*Condition:*

*Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed off site without increase to flood risk on or off-site.*

*The drainage scheme shall also demonstrate (with reference to published guidance):*

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.*
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.*

*The drainage scheme shall be implemented in accordance with the approved details.*

*Reason:*

*To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.*



*This response has been provided using the best knowledge and information submitted as part of the planning application at the time of responding and is reliant on the accuracy of that information.*

*2<sup>nd</sup> Comment - We have been contacted by the applicant for development at Bobbing Car Breakers Sheppey Way Bobbing Sittingbourne Kent, ME9 8QX in relation to planning application 20/502715/OUT that Southern Water needs confirmation of the LLFA acceptance of discharge of surface water to the foul sewer.*

*The application is for the construction of 16 residential dwellings on approximately 1ha brownfield site. The application is supported by a Drainage Strategy report (Herrington, June 2020).*

*We have previously provided a consultation response on 13 July 2020 which recommend conditions as we had some uncertainty as to the final discharge destination which could be into existing highway drainage network or into existing foul water drainage network. We had recommended conditions to confirm the final drainage destination prior to works commencing.*

*In this instance we would support surface water discharge to the foul system given the constraints on drainage infrastructure in the area and the lack of any other alternative. We understand that a new sewer will be requisitioned and therefore can be appropriately sized to accommodate surface water and foul without any exceedances. We would expect that the surface water discharge rate from the site will be restricted to greenfield runoff rates.*

*In the event that upgrades to the existing network are required, then it would be important to ascertain that this can be accommodated and when it may be delivered.*

- 6.17 Environmental Services – 1<sup>st</sup> Comment – *Apart from some extra comments concerning air quality below, I have not much to add about this proposal that has not already been raised by my colleague Julie Coxon in her email sent to the planning officer for the previous submission made under 19/500837/OUT on 25<sup>th</sup> of April 2019. These comments are still valid. I note that this proposal was refused.*

*Her comments are reproduced in full below.*

*I have no objection to this development, but recommend that any planning approval be subject to the following conditions:*

*There is a strong likelihood for contamination to be present on the site, and the desk study submitted with the application has recommended a full site investigation, to include petroleum officer enquiries regarding the status of the old filling station tanks on site. I therefore recommend the following conditions:*

*1. The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the Local Planning Authority:*

*No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:*

a) *An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology and following all the recommendations contained in the Soiltec Desk Study submitted with this application.*

b) *A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.*

2. *Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the District Planning Authority.*

3. *Upon completion of the works identified in the contaminated land assessment, and before any part or agreed phase of the development is occupied, a closure report shall be submitted which shall include details of the proposed remediation works with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation 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.*

4. *Prior to the commencement of the development a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003). unless previously agreed in writing by the Local Planning Authority.*

*The code shall include:*

- *An indicative programme for carrying out the works*
- *Measures to minimise the production of dust on the site(s)*
- *Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)*
- *Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)*
- *Management of traffic visiting the site(s) including temporary parking or holding areas*
- *Measures to prevent the transfer of mud and extraneous material onto the public highway*
- *Measures to manage the production of waste and to maximise the reuse of materials*

- *Measures to minimise the potential for pollution of groundwater and surface water*
- *The arrangements for public consultation and liaison during the construction works*

*5. Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in back garden and other relevant amenity areas will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice, shall be submitted to and approved in writing by the Local Planning Authority.*

*The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.*

*I understand that the site will need to be cleared and buildings demolished prior to any site investigative works. Demolition of the buildings does not appear to form part of this application, and will need to be covered by other means, such as a prior notification application or building control demolition notice. An asbestos survey should be carried out and any asbestos found removed prior to demolition. To this end, I recommend the following condition:*

*6. No asbestos associated with the demolition of the existing buildings shall remain on the site.*

#### *Air quality*

*The site is close to the A249 which provides not only the main noise source to the site but also a risk of significant air pollution affecting it.*

*Therefore, to be consistent with the latest Air Quality Planning Technical Guidance, an air quality assessment is required for this site, using modern and acceptable methodology describing how air pollution may affect this site with any mitigation measures required as a result of the report being included.*

#### *Recommendations:*

*Described above.*

*2<sup>nd</sup> Comment – ‘Air Quality Assessment – EP comments The methodology and assessment used with the Air Quality Assessment undertaken by Kairus Ltd is acceptable and complete for the development nature, size and location. The operational impacts traffic flow related impacts to receptor sites are low and with this the change of use will reduce the numbers of vehicles compared to the previous Car breakers site. The mitigation measures suggested for the construction and operational phase are adequate for this development.*

Members will note that the conditions requested are included below, and attention is drawn to conditions (23, and 32), some conditions have been covered by those requested by the Environment Agency.

#### 6.18 KCC Economic Development – Request for contributions.

	Per ‘applicable’ House (12x)	Per ‘applicable’ Flat (x4)	Total	Project

Primary Education	£6,800.000	£1,700.00	£88,400.00	Towards the new Primary School construction upon land off Quinton Road, NW Sittingbourne policy MU1
Primary Land	£2026.22	£506.56	£26,340.86	Towards the new Primary school site acquisition upon land off Quinton Road, NW Sittingbourne
Secondary Education	£5,176.00	£1,294.00	£67,288.00	Towards the new Secondary school site construction upon land off Quinton Road, NW Sittingbourne policy MU1
Secondary Land	£2,635.73	£658.93	34,264.53	Towards the new Secondary school site acquisition upon land off Quinton Road, NW Sittingbourne

	Per Dwelling (x16)	Total	Project
Community Learning	£16.42	£262.72	Contributions requested towards additional equipment and resources at Sittingbourne Adult Education Centre
Youth Service	£65.50	£1048.00	Contributions requested towards additional resources for the youth service in Sittingbourne
Library Bookstock	£55.45	£887.20	Contributions requested towards additional resources, services and stock for the local Library Services including the mobile Library attending Bobbing
Social Care	£146.88	£2350.08	Towards Specialist Care accommodation in Swale Borough
	All homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M4 (2)		
Waste	£221.92	£3,550.72	Towards MRF and additional capacity at the HWRC & WTS in Sittingbourne

Broadband	<p><b>Condition:</b> Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.</p> <p><b>Reason:</b> To provide high quality digital infrastructure in new developments as required by paragraph 112 NPPF.</p>
Highways	Kent Highway Services will respond separately

I have chased up those consultees who have not responded and will update Members at the meeting.

## 7. BACKGROUND PAPERS AND PLANS

Location Plan	02098 1050 P2
Existing Site Plan	02098 1055 P3
Existing Site Elevations (Sheet 1)	02098 2001 P1
Existing Site Elevations (Sheet 2)	02098 2002 P1
Existing Site Elevations (Sheet 1)	02098 2003 P1
Existing Site Elevations (Sheet 4)	02098 2004 P1
Existing Site Elevations (Sheet 5)	02098 2005 P1
Proposed Site Layout	HMY_02098_SK_2013_P3
Sketch View Overview from Sheppey Way	HMY 02098_SK 2014_P1
Sketch View Entrance from Sheppey Way	HMY 02098_SK 2015_P1
Sketch View of Internal Courtyard	HMY 02098_SK 2016_P1
Herrington Consulting Limited Drainage Strategy (June 2020)	
Landscaping and Visual Appraisal	
Landscaping and Visual Appraisal 2-4 Assessment of Viewpoints	
Planning Design and Access Statement	
Planning Statement Appendix 1	
Planning Statement Appendix 2	
Statement of Employment	
Transport Statement	
Transport Statement Appendix 1 to 11	
Heritage Statement and Impact Assessment	
Phase 1 Environmental Study	
Project Design Guide	
Air Quality Assessment	

## 8. APPRAISAL

### Principle of Development

- 8.1 The application site is located outside of the Built-up Area boundary of Sittingbourne and Iwade. The site is considered to be located in the open countryside in accordance with policy ST 3 of the Swale Local Plan. Policy ST 3 states that proposals in the open countryside will not be permitted unless supported by national planning policy and can

demonstrate that it would contribute to protecting and where possible enhancing the setting, tranquillity and beauty of the countryside.

8.2 The application site currently operates as a car breaker yard with other associated activities. The site is covered in hardstanding and is has a number of outbuildings, and associated paraphernalia in the form of stacked vehicles and vehicle parts. The site is therefore considered to represent previously developed land (brown field) under the definition provided by the framework.

8.3 Paragraph 11 of the National Planning Policy Framework (NPPF) states that plans and decisions should apply a presumption in favour of sustainable development.

8.4 The Council's latest position indicates a demonstratable position of a 4.6-year housing supply and does not meet the minimum requirement of a 5-year housing land supply. In such situations, the NPPF advises that plans and decisions should apply a presumption in favour of sustainable development.

8.5 For decision making paragraph 11 states:

*'d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'.*

8.6 As the Council cannot demonstrate a 5-year housing supply the titled balance applies, the application therefore falls to be considered under ii) as the site is not located in an protected area as defined by the Framework. The proposal needs to be considered on balance as to if it represents sustainable development.

8.7 Paragraph 80 of the NPPF states that isolated homes in the countryside should be avoided.

8.8 Paragraph 123 of the NPPF states that:

*'Local Planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in the plans, where this would help to meet identified development needs. In particular they should support proposal to:*

*a) Use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework;...'*

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

- a) **an economic objective** – to help building a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) **a social objective** – to support strong, responsive and competitive economy, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities, health, social and cultural well-being; and
- c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigation and adapting to climate change, including moving to a low carbon economy.

#### *Social objective*

- 8.10 The proposal would seek to provide up to 16 residential units in accord with the indicative layout and Transport Statement. The proposal would also seek to provide a 40% affordable provision of 7 units. The provision of both market and social housing would be considered to have social benefit and is given moderate weight.
- 8.11 The proposal would see benefits in terms of additional open green space and additional landscaping. These would be considered to represent an improvement from the current status of the site. Currently the site does not operate on a 24hr basis, and the introduction of residential use would provide more natural surveillance and presence in the area. There is also a benefit for existing residents of the area as a result of the removal of the existing use, which detracts from local amenity.
- 8.12 The site is located in an isolated area and is some distance from local amenity provisions. The additional residents would likely rely upon services outside of the area due to the isolated position of the site. However, additional occupants of the area may add to the social vitality of the area.
- 8.13 The application site is approximately 0.73km to the edge of the settlement of Iwade and 1.6km to Bobbing both along the Sheppey Way. The site is also approximately 0.61km to the edge of north west Sittingbourne via a footbridge along Bramblefield Lane. The site, due to the proposed connecting footpath to Bramblefield Lane would be a short walk to Grovehurst Road which contains a small shop, surgery and pharmacy. The walk from the site to the Kelmsley train station would also be approximately 16 minutes from the site. Further, the Northwest Sittingbourne allocation proposes further amenities in the locality. Overall, the proposal is considered to have a neutral impact in regard to the social objective.

#### *Environmental objective*

- 8.14 The proposal would see the loss of the car breakers yard which likely results in pollutants to the natural environment. The replacement with residential use would see the

remediation of the land and removal of contaminants, and this would be secured by condition. Further, the site current has a low biodiversity value given the site coverage in hardstand and the end use. The proposal would offer the opportunity to introduce measures to enhance biodiversity, add landscaping (to the benefit of visual impact and landscape impact), and improve the sites contributions to the environment. These matters are given moderate positive weight.

- 8.15 The proposal is however located some distance from local amenity provisions provided in Iwade, Bobbing and at Kemsley. The proposal includes the provision of a pavement /path to connect the site to Bramblefield Lane and access to the services in Kemsley. While a degree of reliance on the car would be generated from the site, given the current use the impact would not be significant to the locality.

*Economic objective*

- 8.16 Policy DM 3 of the Swale Local Plan seeks to ensure the sustainable growth and expansion of enterprises in the rural area. The policy resists the provision of residential development where it would reduce the potential for rural employment, unless it is demonstrated that the employment use is it undesirable or unsuitable.
- 8.17 Paragraph 7.1.13 which provides associated guidance for policy DM 3 also indicates that a factor impacting the development of the rural economy is the limited availability of land and buildings. The paragraph continues to state that as a result of the limited land availability permission for residential use will only be granted where there is no demand for employment use or if they are wholly unsuitable for employment.
- 8.18 Policy CP 1 seeks to avoid proposals that would result in the diminishing of existing employment sites and allocations are appropriately located and sustainable. Paragraphs 84 and 85 of the National Planning Policy Framework also support the conservation and expansion of the rural economy, although recognising development outside of settlements should be sensitive to the surrounding area.
- 8.19 The application site is currently in active employment use as a car breakers yard (Sui Generis use). The site provides some ancillary services including tyre refurbishing and parts/vehicle sales.
- 8.20 An Employment Statement was provided with the application setting out the viability of the site. The statement drew on to two main points which have impacted the site viability and prevented the sale of the site. These relate to the size of the site and licencing/environmental impacts.
- 8.21 In accord with the statement the scale of the site is roughly half of what is required to run a business of this nature viably, with other such sites usually on plots of around 2ha. The land around the site is not available for expansion. Given the location of the site is not considered likely that permission for expansion would be looked upon favourably. Further, a number of the buildings have reached there 'end of life' and would require refurbishment. These factors have affected the attractiveness of the site in the marketplace.



- 8.22 The statement continues to set out that due to modern day Environmental Regulations make the running of the site and its viability for redevelopment for commercial purposes unviable. The Environment Agency have confirmed that the site does in places fall foul of compliance with EA Regulations.
- 8.23 The site is also located in fairly close proximity to two residential unit and in the local countryside, The re-use of the site for other purposes may therefore be difficult to secure through planning in retaining sufficient amenity and remediating the site may undermine other commercial uses of the site. The site is not allocated by the local plan and is not of a scale which would undermine the local economy.
- 8.24 The application has provided limited marketing evidence for the loss of the employment use. Further, no surveys or assessment of potential end uses on commercial vain have been submitted to support the application. However, the site is not allocated and currently results in a degree of pollution as a result of its use. The sites isolated position and need for remediation are considered against planning policy to make the site unattractive for commercial use. The loss of the employment site, when considered against the Framework as a whole is not considered harmful.
- 8.25 The construction process of the development would not be considered to have long term economic benefits. The impact of the construction process would be considered neutral. The re-use of this land for employment or residential use would require remediation of the site. The replacement of the employment use would therefore be considered desirable and the replacement with residential units would secure the site remediation.

#### *Summary*

- 8.26 The proposal is located in a somewhat isolated position which would result in reliance on private vehicular transport, though amenities at Iwade and in Sittingbourne can readily be reached using non-car travel modes. The transport statement considers the introduction of a footpath to extend down to Bramblefield Lane. The footpath would allow some access to the Kemsley area and its associated amenities. Some conditions could be imposed to mitigate this impact including requirements for sustainable energy resources on both dwellings and car charging units.
- 8.27 The proposal would see the loss of an employment use in a rural location. However, the loss is considered neutral as it results in Environmental benefits. Further, the proposal would utilise brownfield land and make efficient use of land.
- 8.28 The site is however brownfield land and is subject to contamination and provides limited benefits to the environment. The proposed re-use for residential purposes would allow for remediation of the land, introduction of additional landscaping, and ecological enhancements.
- 8.29 Further, to the above the proposal would provide social benefits with the provision of additional dwellings and contribution to an identified affordable housing need. The proposal is considered to result in a net gain to the setting of a designated heritage asset and would not result in harm to the landscape.

8.30 While the proposal would likely result, to some extent, in reliance on private vehicles, the scheme would incorporate measures to reduce the reliance on car use. On balance, the proposal would provide benefits to the environment visually, in terms of ecology, and by virtue of removing a use that detracts from local amenity. The overall impact of the development would not be so significant as to outweigh the benefits when considering the proposal against the Framework as a whole.

### **Visual Impact**

8.31 As noted above, the site is located in the open countryside. Policy ST 3 of the Local Plan does allow for development outside of the built-up area boundary. However, in such locations the proposal would need to demonstrate that it would contribute to protecting, and where appropriate enhancing, the landscape setting, beauty, and tranquillity of the countryside.

8.32 Policies CP 3, CP 4, DM 14 and DM 24 seek to ensure development has a high-quality design, is appropriate to the site context, and reinforces the local distinctiveness. Paragraph 124 (d) of the National Planning Policy Framework seeks to ensure efficient use of land which maintains the areas prevailing character.

8.33 Sheppey Way has a rural character with fields extending both to the east and west of the road. The road is bounded by vegetation formed of both hedging and tree coverage. Due to the width of the road and sporadic forms of both commercial and residential development, which are situated in close proximity to the road, there is a degree of urban form. The road represents a transition from the more urban form of Sittingbourne to the east and the open countryside to the west.

8.34 The application site is as above comprised of a car breakers yard. The site contains a large number of stacked vehicles in various states of disrepair. A number of outbuildings are also located across the site providing storage, reception area, and workshops. Due to the use of the site, there is also a wide degree of paraphernalia which covers the site.

8.35 Due to the proximity to Sheppey Way the breakers yard forms a prominent part of the street scene. A small buffer area between the road and the outbuildings/stacked vehicles allows for parking. While the cars are located to the mid-to-rear section of the site the presence is still discernible from the street scene.

8.36 Due to the use of the site, there is a somewhat *ad-hoc* arrangement of buildings and vehicles. The age, condition and structure of the site is not considered visually attractive and does detract from the rural, loose knit character of the area. The low-rise nature of the development and its small set back from the road reduce the visual prominence. However, the contamination, noise and activity levels associated with the site is not characteristic of the tranquillity of the countryside.

8.37 The existing residential development in the site context is low density and appears sporadically along this section of Sheppey Way. The indicative layout of the proposal illustrates up to 16 residential units, which is a reduction from previous proposals.

8.38 The proposal would see a higher density of residential development compared to its surrounding, which is somewhat out of character in the area, however, the sense of

density and enclosure of the vehicles and paraphernalia is similarly out of character in the existing environment. In addition, Members will note that this equates to a density of 16.32 dwellings per hectare.

- 8.39 The proposed indicative site layout indicates a buffer from the roadside. The buffer would reflect the current separation from the road and aid in reducing the visual presence of built form. Further, the plan indicates landscape buffers to the northern, southern, and western boundaries to screen the development and mirror the degree of vegetation in the wider area. The buffers may need to be somewhat adjusted to allow for residential curtilage but could still create a sense of separation from the roadside.
- 8.40 The proposal would result in a degree of urbanisation as the density of the proposed units would not have the sporadic form and spacing of a rural setting. However, the residential use would likely have a reduced perceived activity level to that of the car breakers yard. Further, the proposal would allow space for residential garden land, buffer zones with additional planting, and perceived sense of spacing which would cumulatively create a greater sense of tranquillity.
- 8.41 The restoration of the site, conditions to control the design and enclosure details could ensure that the proposal reflect the setting and local distinctiveness. The proposal would see a deviation from the general density and character of the area. However, when considered against the existing context up to 16 units would be considered to represent an improvement to the landscape, noting that the surrounding area is characterised by an eclectic mix of agricultural, residential and commercial buildings, many of which are not aesthetically pleasing.

### **Heritage**

- 8.42 Policy CP 8 seeks to ensure development proposals both sustain and enhance the significance of Swale's designated and non-designated heritage assets. Policy DM 32 of the Local Plan outlines that development proposal will be approved where the listed buildings setting is preserved.
- 8.43 The application has been accompanied by a Heritage Statement as the site lies within the setting of Pheasant Farmhouse which is grade II listed. Pheasants Farmhouse is located to the south of the site and was built circa 1700 and has been subject to early 19<sup>th</sup> century alterations. The building is two storeys and formed part of a former farmstead.
- 8.44 The application site is separated from the boundary of Pheasant Farmhouse by a small commercial unit. The farmhouse is set back from the road and is well screened by trees and vegetation. The access to the property provides glimpses of the building from the street scene.
- 8.45 It appears from historic mapping that outbuildings associated with Pheasant Farm stretched across to the north of the farmhouse and into the application site. These buildings potentially formed part of the historic agricultural use associated with the listed building. In comparing historic mapping and the areas current composition it appears a number of the buildings have been lost.

- 8.46 However, it is considered that building 3 on the application site formed part of the former farmstead of Pheasant Farm. The building would have been functionally linked to the listed building. However, it has been concluded that in accord with Historic England guidance that the visual separation, condition and intervening boundaries are such that the building is not curtilage listed.
- 8.47 Further, the Conservation Officer has assessed both external and internal photographs of building 3. In the assessment it has been acknowledged that given the alterations that have been made to building 3 the building has limited heritage value. As a result of the above the loss of building 3 has been accepted.
- 8.48 The current car breakers yard has commercial/urban appearance which is at odds with the farmhouse historic setting and use. The former setting of Pheasant Farmhouse would have consisted of low-rise farm buildings and set in a wider agricultural area. The breakers yards proliferation of stacked vehicles, ad hoc modern outbuildings, and general associated activity has a negative impact on the setting of the listed building.
- 8.49 The application has seen a reduction in potential unit numbers since the previous 2019 submission, with up to 16 units indicated on the illustrative plan. The density of residential units would be somewhat uncharacteristic of a rural area and the setting of a listed building, which would traditionally have been set in wider agricultural unit. However, the Conservation Officer has acknowledged that the proposal would see a net improvement to the setting of the listed building through the site's redevelopment.
- 8.50 The introduction of residential units would provide the opportunity decreased activity levels and wider open green spaces. Further, as per the recommendation of the Conservation Officer any approval could be subject to a condition to ensure the layout and design of the site sensitively address the sites rural context and its location within the setting of the listed building.
- 8.51 The Conservation Officer considered that the indicative layout loosely reflects a farmstead layout. The setting of the buildings to the west in a long-connected range would allow more of the site frontage undeveloped and this could provide the visual impression of an agricultural style development.
- 8.52 The proposal would allow and net improvement to the setting of the listed building. The overall design and layout would need to be subject to a condition for a development brief. Such a condition could be secured upon any grant of consent as it would ensure any forthcoming development would reflect the rural character of the area. The condition would relate only to the scale, design and layout as the other matters would be considered under reserved matters.
- 8.53 The proposal would be considered to result in a net gain to the setting of the listed building, subject to condition. The proposal would be considered to conserve and enhance the setting of the designated heritage assets in accord with local and national policy.

### **Residential Amenity**

- 8.54 Policy DM 14 of the Swale Local Plan states that all development should ensure that no significant harm to amenity levels. The layout, scale and detailing for the new dwellings would be secured at reserved matters stage.
- 8.55 Two residential dwellings are located to the north-east and south of the site, namely Corbiere and Pheasants Farmhouse. The curtilage of Corbiere lies adjacent to the northern boundary of the site. Pheasants Farmhouse is located to the south and the dwelling lies in excess of 21m from the site. A business unit is located between Pheasants Farmhouse and the site.
- 8.56 Currently the dwellings sit in the context of the car breakers yard which generates a degree of noise and activity associated with the use. The noise and activity levels associated with 16 residential units would be considered to have a lesser impact in regard to noise and activity levels on the surrounding area.
- 8.57 While some noise may be generated by the construction processes this would be a temporary impact and could be control by conditions relating to a construction management plan. Initially comments from Environmental Health had requested a condition relating to internal noise levels for the proposed units. However, these were not picked up in the second comment and given the siting of the existing residential units and the proposed use the condition is not considered to meet the tests under the NPPG.
- 8.58 The layout and design would be considered at reserve matters stage. The indicative layout illustrates the site could be constructed with an appropriate separation distance from existing properties to ensure sufficient daylight/sunlight could be retained. Further, the illustrative plan indicates buffers and separation distances which would protect outlook and prevent visual intrusion from occurring.
- 8.59 Due to the orientation and layout of the existing dwellings around the site, in combination with the scale of the plot no significant overlooking would occur. Some views toward to the rear residential amenity area of Corbiere may occur. Such views could be mitigated through obscure glazing and internal layout and are of an acceptable distance to prevent significant harm to privacy.
- 8.60 In regard to future occupants' amenity, generally flank to rear distances should have a minimum of 11m separation. Rear gardens should have an overall depth of 10m, and sufficient natural light should be available to the dwellings. The proposal has demonstrated a layout that is capable of creating sufficient privacy and outlook to the units.
- 8.61 The proposal does not indicate residential curtilages for all of the units. Although some of the units would likely be flats and the scale of the site with 16 units would be sufficient to ensure sufficient amenity space. Some re-orientation of the layout could be achieved to provide the required standards.
- 8.62 The proposal would be considered to be capable of providing sufficient amenity for future occupiers. Further, the proposal would conserve the amenity of existing residential properties.

### Highways and Parking

- 8.63 The application seeks outline consent will all matters reserved including the access to the site.
- 8.64 Policy DM 6 of the Swale Local Plan seeks to manage and transport demand and impact including sustainable transport measures. Policy DM 7 seeks to ensure sufficient parking is provided for both vehicles and bicycles.
- 8.65 The indicative site plan indicated a single vehicular access point which would be located along Sheppey Way. The indicative plan indicates a total of 16 units all of which would allow all of the dwellings accessed directly from the internal road layout. The single vehicle access would allow adequate turning space within the development allowing vehicles to leave the site in a forward gear. The single access would also aid in reducing the potential for vehicles to park on the highway.
- 8.66 As above the site currently operates a car breakers yard and vehicle recovery unit which generates a number of vehicle movements throughout the day. The Highways Officer is satisfied that a development of 16 residential units would not be considered serve under paragraph 111 of the National Planning Policy Framework. It is considered that the proposed use would generate less activity from the existing uses.
- 8.67 The Highways Officers comments were based upon a proposal of 16 residential units. The Officer has advised that the unit numbers should be restricted to 16 as a result of the assessment. The unit numbers would be secured via condition upon any grant of permission.
- 8.68 The proposed access location and sightlines are considered acceptable by the Highways Officer. However, the Officer has stated that the design of the junction would need to be refined and the road width may need to be extended to 5.5m. These matters could be dealt with at reserved matters stage as all matters are reserved at this stage.
- 8.69 Swale Borough Council Parking Standards (May 2020), outlines that in rural locations 1- and 2-bedroom flats should have 1 space per unit and 3- and 4-bedroom properties 3 parking spaces per unit. The guidance also indicates the provision of 0.2 visitor spaces per unit.
- 8.70 The information provided in the application does not provide a mix. The bedroom numbers remain unclear. The indicative plan indicates approximately 39 parking spaces (including garages). Assuming four of the units are flats the total need would be 46 spaces, this assumes all of the dwellings would be 3/4 bedrooms. Given the need for the proposal to meet a policy compliant mix and the additional space on site it is considered sufficient parking could be provided.
- 8.71 The Transport Statement has indicated a footway which would extend to the south of the site to connect with Bramblefield Lane. The footway would allow pedestrian access to facilities and amenities in Kemsley. The proposal suggests the provision of an on-carriageway cycle route along Sheppey Way. However, the Highways Officer considers that this should be formed of an off-carriageway footway/cycle route of 3m in width. The officer considers this could be secured via condition.

- 8.72 The footway would continue the existing footpath in front south of the site to extend along the front of Pheasant House. The footpath would then transfer to the eastern side of the road to meet Bramblefield Lane allowing wider access to the services in Kemsley.
- 8.73 The site is located some distance from local bus stops which are positioned to the north and south of the site. The KCC Highways Officer considers that the proposal could contribute to the provision of further bus stops outside of the development. The provision would aid encouraging the use of sustainable transport links.
- 8.74 The proposal is considered, subject to conditions and Section 106 agreement, to comply with Highways and Parking policy.

### **Biodiversity**

- 8.75 Policy DM 28 of the local plan seeks to ensure proposals conserve, enhance and extend biodiversity and provide net gains where possible. Due to the sites current condition it is considered that Biodiversity Net Gain would be achievable and this would be secured via condition.
- 8.76 The application site is utilised for commercial activities. The site is therefore subject to high activity levels, comprised mainly of hardstanding, and open storage and as such does not represent an area of high biodiversity value. The KCC Ecology Officer has assessed the Ecological appraisal and is satisfied with the content.
- 8.77 The Officer has noted that the site has limited potential to be used by protected/notable species and that there is no requirement for a detailed mitigation strategy. The report did indicate that the site offers the potential to be used by commuting badgers and hedgehogs. Further, the site may be subject to some breeding birds' nests. However, the Officer is satisfied that this could be avoided through the implementation of a precautionary mitigation strategy, incorporated into any condition requiring a Construction Management Plan.
- 8.78 The bat emergence survey indicated low numbers of common pipistrelle bats and noctule foraging/commuting within the site. Artificial lighting can negatively impact foraging bats and as such a condition would be applied to any grant of consent requiring details of lighting in accord with the Bat and artificial lighting in the UK document.
- 8.79 Both local and nation policy seeks to ensure ecological enhancements and such enhancements would be conditioned upon approval. Given the current condition of the site which is subject to contaminates the proposal offers a good opportunity to enhance ecology.
- 8.80 The site is located within the zone of influence (6km) of the Swale and Medway Estuary and Marshes Special Protection Area (SPA), and Wetland of International Importance under the Ramsar Convention (Ramsar Site). As a result of the sites proximity to the SPA and Ramsar sites an appropriate assessment must be undertaken, which will be assessed below:

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

- 8.81 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).
- 8.82 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.
- 8.83 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. 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.
- 8.84 The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£253.83 per dwelling as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.
- 8.85 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.
- 8.86 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.
- 8.87 The proposal would have an impact upon the SPAs, however the scale of the development (up to 16 residential units) is such that it would not be considered, alongside the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff, that the impacts would be significant or long-term.
- 8.88 Based on the potential of up to 16 residential units being accommodated on the site A SAMMS contribution of up to £4061.28 could be secured under the Section 106 agreement. The legal agreement could be worded such that it sets out that the SPA mitigation contribution is to be secured prior to the occupation of any dwelling. Therefore, taking into account the above it is considered that there will be no adverse effect on the integrity of the SPAs.



- 8.89 Finally, 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/>).
- 8.90 The proposal would be considered to reflect the aims of policy DM 28 and would provide onsite improvements for biodiversity as well off-site mitigation through SAMMS contributions.

#### **Developer Contributions**

- 8.91 Policies CP 6 and IMP 1 seek to deliver infrastructure requirements and other facilities. Contributions toward waste, social care, library book stock, youth services, community learning, and education would be sought. These have been outlined by KCC Contributions team (and Members will note paragraph 6.19 above, and that if 16 dwellings are ultimately built a contribution of approx. £224,392.11 would be payable) and could be secured through a Section 106 agreement.
- 8.92 In addition, the legal agreement would need to include contributions for wheelie bins, an administration / monitoring fee, SPA mitigation (see paragraph 8.86 above) and formal sports / play equipment. I will update Members at the meeting.

#### **Affordable Housing**

- 8.93 Policy DM 8 of the Swale Local Plan deals with affordable housing and sets out in 'All other rural areas', for which the site is located, there is a requirement (on schemes of 11 dwellings or more) for 40% of the total units to be affordable. Of the total number of affordable units, the Council would seek an indicative target of 90% affordable/social rent and 10% intermediate products.
- 8.94 The Planning Statement indicates a commitment to provide 40% affordable housing on site in accordance with the Councils policy. The indicative plan and associated document have indicated up to 16 residential units, which would be conditioned upon any grant of consent.
- 8.95 The maximum number of affordable units would therefore be 7, which in accord with the Housing Officers comments would need to comprise 6 affordable rented properties and 1 shared ownership dwelling. No details of mix have been provided as part of the outline consent, the affordable homes offered would need to be reasonable and proportionate mix to the open market properties.
- 8.96 The Housing Officer considers the location of the affordable units to be acceptable and confirms the need for all types and sizes of affordable units in Bobbing and Sittingbourne area. The Officer has recommended that all of the affordable units are delivered to a M4(2) standard which would be considered reasonable.
- 8.97 The Officer has noted that due to the small number of units on the site, some Registered Providers may be reluctant to come forward. The Section 106 could be written such that should the end developer be unable to secure a Registered Provider for the site then a

mechanism would be introduced to allow consideration of a contribution for off-site provision.

- 8.98 The proposal would contribute to the Borough's affordable housing need and would comply with the remits of policy DM 8 subject to an agreed Section 106 agreement.

### **Other**

#### *Land Contamination and Air Quality*

- 8.99 Due to both historic and present day uses of the site, the site is clearly subject to a degree of contamination. The Desk Study has recommended a full site investigation. An investigation and remediation works would be conditioned subject to any approval. Several conditions have been suggested by the Environmental Health Officer to ensure successful remediation. The Environment Agency similarly have no objection to the proposal subject to conditions.

- 8.100 The proposal would allow remediation of the site and the removal of contaminants that currently exist. Such works would be beneficial to the local environment.

- 8.101 The application site is located close to the A249 which is the primary noise source to the site and a source of air pollution affecting the site. A condition would be imposed to ensure internal noise levels to the development would be at an acceptable level. Environmental Health therefore recommended an Air Quality Assessment be provided.

- 8.102 The Air Quality Assessment provided, and its methodology was considered acceptable by Environmental Health. Members will note that the site is not located close to an AQMA(s). The report indicated that the operational impacts related to traffic flow to receptor sites were low. The change of use was also considered to reduce the numbers of vehicles compared to the existing use. The mitigation measures put forward to reduce the construction impact were equally found acceptable.

- 8.103 The proposal would be considered to have a beneficial impact in regard to the loss of vehicle movements and associated benefit to air quality and the reduction in on site contaminates.

#### *Drainage*

- 8.104 Policy DM 21 of the Local Plan seeks to ensure, when considering the implications of drainage for development that where possible, sustainable drainage systems to restrict run off to an appropriate discharge rate, maintain or improve the quality of the receiving watercourse.

- 8.105 KCC Flood and Water Management have commented on the application and has acknowledged that as the site is previously developed there is less risk associated with the determination of the final discharge destination. However, the proposals Drainage Strategy indicates discharge into the foul system given the constraints on drainage infrastructure in the local area. KCC recognised a new sewer would be requisitioned to accommodate surface water and foul without exceedance. It was noted that KCC would expect surface water discharge rates to greenfield run off rates.

8.106 The contaminants on site do present a risk that residual contamination could be mobilised during construction. It would be important to ensure that the controlled waters would not be polluted by the contaminants.

8.107 The Environmental Agency have commented that the reports submitted in support of the application demonstrate that it will be possible to manage the risk posed to controlled waters by the development. The Environment Agency have raised no objections to the proposed development providing their suggested conditions are applied to any grant of consent.

8.108 The proposal would be considered capable of achieving acceptable drainage standards. The proposal would be subject to conditions securing final details of the site's drainage strategy.

#### *Trees*

8.109 The SBC Tree Consultant has noted that the site is not subject to significant tree cover. Although notes that a row of conifers runs along the site boundary, which was confirmed upon the conduction of a site visit. The Tree Consultant considers that these trees are capable of retention and suggest a condition requiring an Arboricultural Method Statement and a Tree Protection Plan. Such conditions would be considered to meet the tests under the NPPG and could be applied to any grant of consent.

8.110 Further, the Tree Consultant has requested a condition securing a comprehensive landscaping scheme. Such a condition would be reasonable and would secure additional planting on site to ensure good visual amenity. Additional planting would secure a net gain in regard to landscaping due to the potential areas of open space which would allow for additional tree cover. Members will also appreciate that 'landscaping' is a reserved matters so if this application is approved, a separate submission giving full landscaping details would need to be submitted at the 'reserved matters' stage.

#### *Minerals and Waste*

8.111 The application site is located in a Brickearth Mineral safeguarding area. Further, the site's use as a car breakers yard means it represents a waste transfer site. The site area sits under 1ha of land and has been subject to previous disturbance. The site has operated as a car breakers yard for over 30 years.

8.112 Policy DM 7 of the Kent Minerals and Waste Local Plan permits non-mineral development which is incompatible with mineral safeguarding where (1) the mineral is not of economic value or does not exist, or (2) the extraction of the mineral would not be viable or practicable.

8.113 KCC Minerals considers that the use of the site and its current condition is persuasive evidence that land won minerals have been disturbed/or contaminated. The potential for usable brickearth is considered so low that it can be discounted. The Minerals Officer therefore considers the exemption criteria (1) and (2) of policy DM 7 of the Kent Minerals and Waste Local Plan have been met.

8.114 Policy DM 8 of the Kent Minerals and Waste Local Plan permits the loss of waste management facilities where it is demonstrated under criteria (5) that the facility is not viable or capable of being made viable.

8.115 The car breakers yard represents a waste facility. As above, the site's overall scale in conjunction with modern day Environmental Requirements undermines the viability of the site. The site's lack of adherence to Environmental Standards has been confirmed by the Environment Agency. The KCC Minerals Officer has acknowledged that the site meets criteria (5) of policy DM 8 and therefore has no objection to the loss of the waste facility.

## **9. CONCLUSION**

9.1 The proposal would result in the loss of an existing employment use and would result in residential development in the open countryside, albeit at a location close to the built-up area boundary of Sittingbourne. The visual impact of the proposal would have an urbanising affect and would have a relatively dense appearance to the looser grain of sporadic residential development in the area.

9.2 However, the proposal would result in an improvement to the existing visual appearance of the site. The change of use would result in lower activity levels and a reduction in the urban appearance the car breakers yard currently represents. The proposal would better reflect the tranquility and character of the area. Further, the proposal would provide net gains in regard to landscaping and biodiversity.

9.3 On balance, the proposal is not considered to result in significant harm that would outweigh the significant benefits of the scheme (including the contribution towards the overall housing supply and to the stock of affordable housing in the Borough) as considered against the Framework as a whole.

**10. RECOMMENDATION** – Grant, subject to conditions and completed section 106 agreement.

## **11. CONDITIONS**

- (1) Prior to the commencement of the development details relating to the scale, layout and appearance of the proposed buildings, and the landscaping and means of access of the site shall be submitted to and approved in writing by the Local Planning Authority.

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

- (2) Application for approval of reserved matters referred to in Condition (1) above must be made no later than the expirations of three years beginning with the date of the grant of outline planning permission.

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

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

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

- (4) Prior to the submission of any reserved matters as required by condition (1) a Development Brief shall be submitted to and approved in writing by the Local Planning Authority. The Brief shall address the proposed architectural approach, construction materials, hard and soft landscaping, and layout. The approved Development Brief shall be adhered to in the submission of details relating to condition (1).

Reason: In the interests of the visual amenity and setting of the designated heritage asset.

- (5) Prior to the commencement of the development an arboricultural method statement and tree protection plan shall be submitted to and approved in writing by the Local Planning Authority. The approved arboricultural method statement and tree protection plan shall be adhered to throughout the construction phase of the development.

Reason: To ensure the surrounding boundary trees are retained and adequately protected.

- (6) Prior to first occupation of the development an Ecological Enhancement Plan (which among other things shall demonstrate how a biodiversity net gain of at least 10% would be achieved) shall be submitted to and approved in writing by the Local Planning Authority. The approved ecological enhancements shall be incorporated into the site as per the approved plan prior to first occupation and maintained as such thereafter.

Reason: In the interest of the ecology of the area and in pursuance of Biodiversity Net Gain.

- (7) No development beyond the construction of foundations shall take place until details of external lighting, which shall be designed to follow recommendations within the Bats and Artificial Lighting in the UK guidance produced by the Bat Conservation Trust and Institution of Lighting Professionals, has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

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

- (8) The details pursuant to condition (1) shall illustrate details of all proposed vehicle parking spaces. The approved parking spaces shall be provided prior to first occupation of the development hereby approved and retained thereafter. No development shall occur that would prevent access to the approved parking spaces.

Reason: In the interests of Highway Safety.

- (9) The details pursuant to condition (1) shall show details of covered cycle parking facilities. The approved cycle facilities shall be provided prior to first occupation of any dwelling hereby approved and retained thereafter.

Reason: In the interests of sustainable development and encouraging sustainable modes of travel.

- (10) The details submitted pursuant to condition (1) (the reserved matters) shall include an updated landscape strategy. All approved landscape works shall be carried out in accordance with the approved details. The landscaping works shall be carried out in accordance with the programme agreed in writing with the Local Planning Authority.

Reason: In the interest of the visual amenity and ecology of the area

- (11) 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.

- (12) The details submitted pursuant to condition (1) (the reserved matters) shall include measures to provide electrical vehicle charging points and shall include;
- (a) Electric vehicle charging points for all dwellings with parking facilities within their curtilage,
  - (b) Electrical vehicle charging points to be provided to a minimum of 10% of all other residential parking areas.,
  - (c) Electrical vehicle charging points to be provided to a minimum of 10% of visitor parking spaces.

No dwelling hereby permitted shall be occupied until the electric vehicle charging points for that dwelling have been installed. All Electric Vehicle Charging units shall be provided to Mode 3 standard with a minimum 7kw. The charging points shall be provided prior to first occupation of any dwelling hereby approved.

Reason: In the interest of sustainable development and encouraging sustainable modes of travel.

- (13) No development shall be carried out beyond the construction of foundations until detailed plans showing the proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed wholly in accordance with the approved details.

Reason: In the interest of highways safety and convenience.

- (14) Prior to first occupation of any dwelling hereby approved the closure of all existing access points (other than access arrangement approved in relation to condition 1 reserved matters) shall be undertaken.

Reason: In the interest of highway safety.

- (15) Prior to the commencement of the development hereby approved details of a 3m footway/cycleway and crossing facilities between the existing footway north of the application site and Bramblefield Lane in accordance with details that shall first have been submitted to and approved by the Local Planning Authority. The approved works shall be provided prior to the first dwelling being occupied and in accord with the approved details.

Reason: In the interest of highway safety and sustainable transport.

- (16) Prior to the commencement of the development hereby approved details of the proposed northbound and southbound bus stops with associated pedestrian hardstanding adjacent to the application site shall be submitted to and approved in writing by the Local Planning Authority. The approved bus stops shall be provided in accordance with the approved details prior to the first dwelling being occupied.

Reason: In the interest of highway safety and sustainable transport.

- (17) Prior to the commencement of the development details for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential. The infrastructure installed on accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.

Reason: To provide high quality digital infrastructure in the new developments.

- (18) The details submitted pursuant to condition 1 (the reserved matters) shall demonstrate how the development meets the principles of 'Secure by Design'.

Reason: In the interests of designing out crime.

- (19) No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to and approved in writing by the Local Planning Authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified: all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order

to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution.

- (20) Prior to first occupation of any of the approved residential dwellings being occupied, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete.

- (21) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development.

- (22) Upon the completion of the works identified in the contaminated land assessment, and prior to any agreed phase of the development is occupied, a closure report shall be submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of the proposed remediation works with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation 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.

Reason: To ensure the site has been satisfactorily remediated and is safe for human occupation.

- (23) Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in back garden and other relevant amenity areas will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice, shall be submitted to and approved in writing by the Local Planning Authority.

The work specified in the approved scheme shall then be carried out in accordance



with the approved details prior to occupation of the premises and be retained thereafter.

Reason: In the interests of residential amenity.

- (24) No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants.

- (25) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants.

- (26) 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 - 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 interests of residential amenity.

- (27) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site.

Reason: In the interests of visual amenity.

- (28) Upon completion of the development, no further development permitted by Classes A, B, C, D or E of Part 1 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), shall be carried out.

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

- (29) Prior to the construction of any dwelling in any phase details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials and measures.

Reason: In the interest of promoting energy efficiency and sustainable

development.

- (30) No development shall take place until details of the surface water drainage from the site is submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed off site without increase to flood risk on or off-site. The surface water discharge rate should be designed to greenfield run off rates.

*The drainage scheme shall also demonstrate (with reference to published guidance):*

- *that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.*
- *appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker. The drainage scheme shall be implemented in accordance with the approved details.*

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

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

Reason: In the interests of water conservation and sustainability.

- (32) Prior to the commencement of the development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and, Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003). The Management Plan shall include:

- (a) Routing of construction and delivery vehicles to/from the site,
- (b) Parking and turning areas for construction and delivery vehicles and site personnel,
- (c) Timing of deliveries,
- (d) Provision of wheel washing facilities,
- (e) Temporary traffic management/signage,
- (f) Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction,
- (g) Provision of parking facilities for site personnel and visitor prior to commencement of work on site and for the duration of construction,
- (h) Dust Management and Mitigation Measures,

- (i) Measures to minimise the noise (including vibration) generated by the construction process (including selection of plant and machinery and use of noise mitigation barriers),
- (j) Details of maximum noise levels up to 1m from the boundary of any residential property adjacent to the site,
- (k) Measures to minimise production of waste and reuse of materials,
- (l) Details of public liaison during construction works,
- (m) Details of the precautionary mitigation approach as outlined within section 9 of the Ecological Appraisal (Native Ecology; September 2018).

The approved Construction Management Plan shall be adhered to through the course of the development.

Reason: In the interests of highway safety, amenity levels and ecology of the area.

- (33) The development hereby approved shall not exceed a total of 16 dwellings. The approved dwellings shall not exceed two storey.

Reason: In the interest of visual amenity.

## INFORMATIVES

- (1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.
- (2) Piling can result in risks to groundwater quality by mobilising contamination when boring through different bedrock layers and creating preferential pathways. Thus, it should be demonstrated that any proposed piling will not result in contamination of groundwater. If Piling is proposed, a Piling Risk Assessment must be submitted, written in accordance with EA guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. National Groundwater & Contaminated Land Centre report NC/99/73". Contaminated soil that is, or must be, disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:
  - Duty of Care Regulations 1991
  - Hazardous Waste (England and Wales) Regulations 2005
  - Environmental Permitting (England and Wales) Regulations 2010
  - The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12-month period the developer will need to register with us as a hazardous waste producer. Refer to the Hazardous Waste pages on GOV.UK for more information'.

### **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.

