

3.2 REFERENCE NO: 20/504408/OUT		
APPLICATION PROPOSAL: Outline application for residential development of up to 100 no. dwellings (Access being sought with all other matters reserved)		
ADDRESS: Land West of Elm Lane, Minster-on-sea, Kent		
RECOMMENDATION: An appeal has been submitted against non-determination of this application (Ref :APP/V2255/W/ 22/3298959) and it cannot now be formally determined by the Council. However, Members need to determine whether the application would have been approved if it was still before them, or on what grounds they would have refused planning permission. This will then form the basis of the Council's case regarding the development, for the purposes of the appeal.		
SUMMARY OF REASONS FOR RECOMMENDATION: As above		
REASON FOR REFERRAL TO COMMITTEE:		
WARD: Sheppey Central	PARISH/TOWN COUNCIL Minster-on -Sea	APPLICANT: Land Allocation Ltd AGENT: AAH Planning
DECISION DUE DATE 22 April 2022	PUBLICITY EXPIRY DATE	OFFICER SITE VISIT DATE 19 May 2022

Planning History

None on this site, but there is a planning application for 64 houses on the land immediately to the west of this appeal site. For completeness, the details of that application are:

Land North East Of Nelson Avenue Minster-On-Sea

21/502256/OUT - *Outline Application with all matter reserved to determine the principle of residential development of up to 64 No 3 and 4 Bedroom dwellings of 1 storey, 1 and half storey, 2 storey, and 2 and half storey dwellings with all associated parking, infrastructure and landscape amenity spaces.*

Decision: Awaiting determination

1.0 DESCRIPTION OF SITE

- 1.1 The appeal site is an area of some 6.4ha of agricultural farmland, located outside the settlement boundary of Minster-on-Sea (on the eastern side) in the open countryside. It is unallocated land.
- 1.2 There is a steep gradient on the site: it slopes downwards from north to the southern end of the site, giving the site a strong, rolling countryside appearance.
- 1.3 Although the southern boundary of the site connects to the rear gardens of Nelson Avenue, albeit separated by mature hedging, there are a number of green fields surrounding the site to the north and west. It is in this context, that the site appears not to be connected to the existing urban area.

- 1.4 This sense of the site being part of the wider open countryside is exacerbated by the rural character of Elm Lane, a narrow, hedge lined road to the east of the site, and the large expanse of open countryside immediately to the east of Elm lane.
- 1.5 The site has never been developed and there is Public Right of Way (ZS8) running through the site (the entrance point is on Elm Lane next to a property known as The Elms).
- 1.6 To the north of the site there is a primary school and cricket club. To the west of the site is paddocks, although it is noteworthy that this parcel of land is also subject to a planning application for 64 houses (21/502256/OUT)
- 1.7 The site boundary lines of the appeal site are distinguished by mature bushes and there are 12 individual trees and four tree groups scattered across the site in groups of 4, none of which have TPO's attached to them.
- 1.8 There are four heritage assets to the north of the site. These are Mill House, a Grade II c18 Listed building on Chequers Road, 49 Chapel Street (another Grade II listed building, the Grade I listed C12 Minster Abbey and the grade I listed gatehouse.
- 1.9 The site is accessed via Elm Lane.

2.0 PROPOSAL

- 2.1 The application is an outline scheme for 100 houses (35% affordable housing) with all matters reserved aside from access.
- 2.2 A new access point would be created on Elm Lane
- 2.3 The parameter plans seek to secure:
 - A re-routing of the Public Right of Way so that the footpath is accessed further up Elm Lane to allow it to run along the northern part of the site, instead of through the centre.
 - A new footpath to connect the site to Nelson Avenue would be provided
 - A Leap close to the eastern boundary
 - Three different building height zones known as developable type area A, B and transitional type. Type A would be for a maximum of 2 storey properties on the southern part of the site. The transitional area, located in the centre/northern part of the site would allow for a maximum of 1.5 storeys, and Type B would be for 1 storey properties only.
 - The three developable areas would be separated into two parcels and would be enveloped by areas of informal open space
 - The existing pond would be retained
 - Six pedestrian/cycle connection points, with a width of 3m, would be provided, connecting the site with the diverted Public Right of Way. It is not known if these connection points would connect with the primary school
 - A primary street network with a minimum road width of 5.5m and a footway with a 2m width.
 - An enhanced landscape buffer along the southern boundary.
 - Traffic calming measures on Scocles Road
- 2.4 A more detailed description of development is set out in the Design and Access Statement.

3.0 PLANNING CONSTRAINTS

- Outside the settlement boundary
- Within 6KM Buffer for SAMMS Strategy
- Public Right of Way ZS8 cuts through the site
- Flood Zone 1: An area with a low probability of flooding
- Agricultural Land Classification: Grades 3b and 4
- Within proximity of the following Listed Buildings:
 - Grade I: The Abbey Church of St Mary and St Sexburga (list entry: 1273489)
 - Grade I: The Abbey Gatehouse (list entry: 1258332)
 - Grade II: Mill Hill House (list entry: 1259757)
 - Grade II: 49 Chapel Street (list entry: 1258068)
- Part of the site is an Area of Archaeological Importance
- Adjacent to an area of Local Green Space (DM18)
- Within proximity to a Scheduled Monument (DM34)

4.0 POLICY AND OTHER CONSIDERATIONS

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permissions to be determined in accordance with the development plan unless material considerations indicate otherwise. As such, the following are relevant:

4.2 ST 1 Delivering sustainable development in Swale;
 ST 2 Development targets for jobs and homes 2014- 2031;
 ST3 The Swale settlement strategy
 ST4 Meeting the Local Plan development targets;
 ST 6 The Isle of Sheppey area strategy;
 CP 1 Building a strong, competitive economy;
 CP3 Delivering a wide choice of high quality homes;
 CP 4 Requiring good design;
 CP6 Community facilities and services to meet local needs;
 CP8: Conserving and enhancing the historic environment
 DM 7 Vehicle parking;
 DM8 Affordable Housing;
 DM 14 General development criteria;
 DM 18 Local Green Spaces
 DM 19 Sustainable design and construction;
 DM20 Renewable and low carbon energy ;
 DM 21 Water, flooding and drainage;
 DM24 Landscape
 DM 28 Biodiversity and geological conservation;
 DM29 Woodlands and Trees
 DM31 Agricultural Land
 DM32 Development involving listed buildings
 DM34 Scheduled Monuments and archaeological sites

4.3 The National Planning Policy Framework (NPPF): Paras 7, 8, 11 (sustainable development); 20 (Strategic policies), 34 (developer contributions); 67 (identifying land for homes); 73 (maintaining a supply of housing sites); 102 (transport); 127 (achieving well designed places); 165 (sustainable drainage systems); 130 (Achieving well-

designed places), 174 (Conserving and enhancing the natural environment), 185 and 186 (Ground conditions and pollution)

- 4.4 National Planning Practice Guidance (NPPG): Air quality; Appropriate assessment; Climate change; Consultation and pre decision matters; Determining a planning application; Historic environment; Housing supply and delivery; Natural environment; Noise; Open space, sports and recreation facilities, public rights of way and local green space; Planning obligations; Transport evidence bases in plan making and decision taking; Travel Plans, Transport Assessments and Statements; Use of planning conditions’.
- 4.5 Supplementary Planning Documents: Developer Contributions (2009); Parking Standards (2020); Swale’s Landscape Character and Biodiversity Appraisal (2011) & Swale Landscape Assessment (2019)

5.0 LOCAL REPRESENTATIONS

5.1 130 letters of objection were received and can be summarised as follows:

- Increased traffic on Elm Lane, Nelson Avenue and Scocles Road
 - Elm Lane is a small lane and already busy and well used by farm tractors and farm machinery
 - There have been traffic accidents on Scocles Road and Elm Lane
 - Traffic monitoring not accurate – it was carried out during lockdown
 - Bearing Fruits Plan 3.1.5, Lower Road is at CAPACITY and cannot support any more cars without MAJOR investment.
 - Increased flooding issues -Elm Lane is very vulnerable to water run off
 - Loss of green fields/spaces and views
 - This development should be looked at in the context of the two other neighbouring planning application at Nelson Avenue and Scocles Road
 - Loss of wildlife
 - Impact on people’s mental well-being
 - Loss of Elm Lane Equestrian Centre
 - Will put pressure on GPs -9,000 people have been told to register with Sittingbourne medical practices.
 - Schools over capacity
 - Overshadowing to properties on Nelson Avenue
 - Loss of privacy to properties on Nelson Avenue
 - A big loss to the local community
- 5.2 Gordon Henderson MP – objection – . He is concerned that the development would have a harmful effect on the environment’, the loss of a further important green space amenity; and the negative impact additional houses will have on the already congested local roads infrastructure, particularly the very narrow Elm Lane.
- 5.3 Minster (Sheppey Cricket Club) – objects to the proposal and make the following comments:

I am the Chairman/Trustee of Minster (Sheppey) Cricket Club. We border the proposed development to the north. We have various issues with flooding at the top of the hill. The flooding at the bottom of the hill/area to be developed must be terrible. Apart from spoiling the views and developing on a green field site.

The traffic through Elm Lane/Nelson Ave/Drake Ave and via Chequers Road past St. George's C of E Primary school and past several parked cars in Chapel Street that constantly only allow one vehicle to pass at a time.

The cricket club was established in 1931 and we have been at our current ground for 89 years. There was a housing development put right on the boundary of our ground. (Boundary Close/Echo Walk) Over many years since the mid-eighties when they were built, we have had to pay for damage to roofs/conservatories/cars etc. We have installed a 10 metre high x 70 metre long net to stop the majority of cricket balls causing damage. Over the years it has cost us tens of thousands of pounds... And will continue to do so, if the development is approved.

We will insist that a 10 metre high boundary net is erected and maintained all the way along the north boundary by the developers/Council. In addition, if any damage/injuries are caused to neighbouring properties or their owners by cricket balls that do go over the boundary net. The cricket club will take absolutely NO responsibility whatsoever!!!

Minster Parish Council -object on the following grounds

"Minster-on-Sea has seen significant residential development in recent years making it now the largest settlement on the Isle of Sheppey. It already possesses one of the largest and fastest growing housing developments in Kent at Thistle Hill where a substantial amount of sites remain undeveloped despite having the relevant planning permissions in place for them to do so. There are also a number of 'windfall' sites in the parish that could be developed to accommodate new residents. The proposal, for the development of a substantial Greenfield Site, lies within the open countryside, within a predominantly rural setting . The site lies outside the built-up area and outside of the area permitted for development within the adopted Swale Borough Local Plan 2017 : Bearing Fruits 2031.

This prominent hillside site is characterised by undulating topography forming a crest towards the centre with a gentle gradient down to the south and north. Put simply, any development of the site will have a significant adverse impact on the landscape character of the area. Indeed, development of any scale would not easily be absorbed by the landscape and this problem is exacerbated by the topography of the site which rises to a crest towards the centre.

The Urban Extensions Study endorses this point, advising that any significant amount of development across this prominent higher ground would be exceptionally visible in sensitive views from the low-lying marshland to the south up towards Minster Abbey and the historic core of Minster. These harmful landscape impacts would be impossible to offset.

Furthermore, the Parish Council must emphasise the fundamental effect on the view of the village from Forty Acres Hill and the view of Minster Abbey from the A2500 Lower Road which historically and culturally is of great importance and will be lost. Moreover, the release of the site would make containment difficult and development pressures further to the east hard to resist.

The proposal is within a Site of Special Scientific Interest (SSSI) Impact Zone. It is therefore an area of particular interest to science due to the rare species of fauna or flora it contains and important geological or physiological features that may lie within its boundaries. To the north of the SSSI and 1349 metres north of the site is the Outer Thames Estuary Special Protection Area (SPA) containing valuable coastal habitat and

birdlife. The proposed development and the application of any associated development measures will result in a net increase in residential accommodation, detrimental to the Greenfield Site and Designated Site of Special Scientific Interest SSSI causing environmental and recreational disturbance where the conservation of biodiversity should be sacrosanct.

Likewise, based on the SFRA watercourses map, the main river downstream of the site is the Scrapsgate Drain which discharges to the coast to the west of the SSSI. Here, it would be beneficial to point out that fluvial flooding is a serious concern. In line with climate change, intense rainfall as well as normal rainfall has resulted in flooding to existing properties in Drake Avenue and Nelson Avenue where gardens already suffer from waterlogging after heavy rain. Water runoff and field drainage will therefore be problematic. Adding another 100 plus houses will only exacerbate the problem and overwhelm local drainage systems where flash flooding will occur. Additionally, surface water sewers will flood into foul sewers and overload both the surface water and combined sewer networks which will be especially problematic.

The main access road to the proposal is via Elm Lane, one of Minster-on-Sea's last remaining rural country lanes. It consists of a narrow, single carriageway where the national speed limit applies. Regarding the road geometry and engineering, the lane has a number of blind spots and sharp corners particularly at the east end. The route is used by farm vehicles, horse riders, walkers, and cyclists etc . There are significant concerns about its narrowness and how this presents in terms of public safety risks on an already very busy road, particularly at school times with minimal passing places and no footpaths. Also, worth noting is that there are at least three equestrian establishments located along this route, one of which must cross the road to get to its grazing. Concern about access for emergency vehicles is also an issue.

There will also be transportation issues arising from the development of the site. Elm Lane, due to restrictions imposed by its width and character, will not cope with increased traffic resulting in restricted access to the A2500 to the south and from the north via the adjoining roads. For example, the proposal will impact negatively on Scocles Road, a single carriageway road running on a north-to-south alignment for some 1.7 km from its junction with Back Lane [Village Centre] to its junction with the A250 Lower Road. That road is narrow. It abuts several accesses: Elm Lane, Drake Avenue, Nelson Avenue and Chiddingfold Close travelling northbound and Harps Avenue and Honeysuckle Drive travelling southbound. All of these are narrow roads that will not accommodate the increased traffic presented by the proposal.

The proposal will lead to the fragmentation of the village where urban sprawl will become the norm. It will also limit access to the existing village due to the chaotic nature of the resultant transport situation. As such, the proposal will bring about unacceptable consequences in highway terms where it will have an adverse impact on the local highway network.

The site will not function well because of the lack of infrastructure either for the short term or for the lifetime of the development. Should it go ahead, the effect on the existing population will be devastating. It will increase the population dramatically lead to urban sprawl across the entire area and result in more traffic on our already congested roads with many areas becoming impassable. If we take a look at the appalling traffic congestion, up to and onto the Island - both existing and imminent - simple common sense overrides any complex and sophisticated reports advocating adding to it! The same can be said for the algorithms and national projections advocating the need for an increase in housing numbers. Take a look at all the other Sheppey sites in the pipeline, and the theoretical need for more simply evaporates.

With specific regard to the application site, the vehement objections from local residents (those who were notified, as many were allegedly not) graphically illustrates the weakness of the case to approve this proposal. From intractable problems of site drainage, dangerous access, (narrow lane with tight bends, blind summit and lack of footpaths), to overlooking existing homes, loss of historic long-distance landscapes of the village from the Island's Lower Road, and the inevitable increase in tailbacks at the Scocles Road junction, the proposal can only diminish the quality of life for both Minster residents and the wider community. Reading the applicant's Transport Assessment is an exercise in perseverance, and one can only conclude that it has been written for those with degrees in statistics and geometry - the latter being mentioned frequently. For the average person, it seems designed to confuse rather than illuminate, and certainly does the concept of public consultation a disservice. Local Elected Members and residents know from personal experience that the report's conclusion is completely at odds with reality - which is that traffic congestion is already insupportably high. The whole application is replete with unresolvable issues, and should be rejected.

For all of these reasons and more, Minster-on-Sea Parish Council resists through this its strongest of objections, any attempt to develop this site in line with National Planning Policy. It urges the Honourable Elected Members who sit on Swale Borough Council's Planning Committee to reject the proposal and encourage the reuse of previously developed land (Brownfield land) where the importance of conserving and protecting the natural environment and protecting and enhancing valued landscapes is paramount.

An update from Minster-in-Sea Parish Council:

Minster -on-Sea Parish Council has already responded to this proposal in relation to the original application in 2020 - and that detailed objection still stands in its entirety. With the caveat that a subsequent extension of public consultation amongst local residents indicated overwhelming opposition to the proposal.

The Parish Council would also point out that since its objection was first registered, GP provision by DMC at Sheppey Community Hospital has been withdrawn, with the result that more than 9,000 patients have been dispersed amongst already over-loaded GP practices, thereby putting the whole local health infrastructure under intolerable pressure.

This, together with the sheer scale of current housing applications and approvals in the Minsteron-Sea area, will inevitably raise existing traffic congestion problems to unmanageable levels. This application also illustrates near-site issues, such as the problems heavy goods vehicles will encounter trying to pass one another on adjoining roads - again adding to local congestion and increasing risk.

The development of this site will cause irreversible damage to the landscape, wildlife, ecology and visual amenity - plus the loss of irreplaceable countryside. This is a uniquely ill-conceived housing proposal in an utterly inappropriate location, and its approval will further undermine a whole range the Island's already inadequate infrastructure and service provision.

It would also be beneficial to point out that the application presents as extremely technical and obscure and it appears to be designed to complicate the public consultation process. As such, Minster-on-Sea Parish Council objects in the strongest possible terms.

6.0 CONSULTATION RESPONSES

Southern Water: Raised no objections, subject to conditions and recommends that the appellant and the Southern Water work together to make sure that the proposed network reinforcement aligns prior to occupation

KCC Flood and Water Management -they raised no objections, subject to conditions and made the following comments:

“1. We agree that the approach as outlined within the Flood Risk Assessment with attenuation of surface water to QBAR is appropriate and demonstrates that surface water can be accommodated within the proposed development area.

2. The discharge rate currently proposed may need to be reassessed against the capacity of the asset to which it is discharging due to the existing surface water drainage in Minster currently being undefined and requiring additional modelling to demonstrate no additional flooding on or off the site. If the discharge rate is reduced we would require the surface water design is adjusted to attenuate the volume of surface water on site prior to discharge at the approved discharge rate.

3. We would refer the applicant to information within KCC’s Drainage and Planning Policy Statement which describes policy in relation to drainage operational requirements and consideration of other matters in relation to layout and design.

4. We note that if permeable paving is proposed we would recommend that other underground services, such as foul sewers, are routed outside of areas of permeable paving or cross it in dedicated service corridors, particularly where sewers will be offered for adoption.

5. At the detailed design stage, we would expect to see the drainage system modelled using 2013 FeH rainfall data in any appropriate modelling or simulation software. Where 2013 FeH data is not available, 26.25mm should be manually input for the M5-60 value, as per the requirements of our latest drainage and planning policy statement (June 2019). Additional comments:

6. Where swales and basins are proposed, they should be designed with side slopes of 1 in 4, or where space is limited the slopes should be no greater than 1 in 3. The design of these features should also consider access and maintenance arrangements of these features.

7. We would recommend the depth of basins/ponds within developments are not considerably deep (greater than 1.2 m deep). Whilst this would limit the amount of storage within the basin, we would recommend consideration of other approaches to design, for example that geocellular tanks may be installed beneath the basin to provide any additional storage needed.

8. We would recommend that full consideration is given to the landscaping of the basins and promotion of multi-functional design. The current basin arrangement may not maximise the open space and biodiversity opportunities available.

9. It should be noted that the site falls within the jurisdiction of the Lower Medway Internal Drainage Board; any works whatsoever that may have the potential to affect any adjacent watercourse (or the network’s ability to convey water) will require their formal prior written permission.”

Internal Drainage Board -The Lower Medway Internal Drainage Board gave the following advice:

In order to avoid conflict between the planning process and the Board's regulatory regime and consenting process please be aware of the following:

- I note that the applicant intends to discharge surface water to a watercourse. The proposed development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3). Any consent granted will likely be conditional, pending the payment of a Surface Water Development Contribution fee, calculated in line with the Board's charging policy. (available at <http://www.medwayidb.co.uk/development/>).*
- I note the presence of a Board Adopted watercourse adjacent to the southern site boundary, and that the applicant intends to do works within 8 metres of this watercourse. Therefore, consent is required to relax Byelaw 10 (no obstructions within 8 metres of the edge of drainage or flood risk management infrastructure).*
- If the applicant's proposals include works to alter the aforementioned Board Adopted watercourse, consent will be required under the Land Drainage Act 1991 (and byelaw 4).*
- I note that works are proposed to install a surface water outfall within the banks of the aforementioned Board Adopted Watercourse. Therefore, consent is required as per Byelaw 17 of the Board's Byelaws.*
- I note the presence of a watercourse which has not been adopted by the Board (a riparian watercourse) within the site boundary and that works are proposed to alter this watercourse. To enable this proposal consent is required under Section 23 of the Land Drainage Act 1991 (and byelaw 4).9 Whilst the consenting process as set out under the Land Drainage Act 1991 and the aforementioned Byelaws are separate from planning, the ability to implement a planning permission may be dependent on the granting of these consents. As such I strongly recommend that the required consent is sought prior to determination of the planning application.*

Environmental Health – object to the proposal on the grounds of insufficient information to access the cumulative Air Quality impacts of this scheme and others in the area.

The Environmental Health officer has also recommended conditions for a phase 2 contaminated land assessment and further noise assessment work for individual plots during the Reserved Matters stage.

Highways England - subject to a condition that restricts occupation of the dwellings until the opening to the public of a Roads Investment Strategy scheme at M2 Junction 5, and a Housing Infrastructure Fundscheme at the A249 Grovehurst Junction, they are happy with the proposal; they do not believe that the development would materially affect the safety, reliability and/or operation of the strategic road network, (the tests set out in MHCLG NPPF 2019 Para 108-11 & DfT Circ 02/13 Para 8 -11) in this location and its vicinity.

Environmental Agency: No comments to make

Natural England – made the following comments and requested a contribution of £253.83 per dwelling which equates to **£25,383**:

“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)."

Affordable Housing Officer -commented that although the Council's adopted Local Plan policy DM8 does not require affordable housing delivery on sites in Sheppey, this scheme at Elm Lane Minster is offering 35 affordable homes, which is very much welcomed.

The housing officer added: "As this is an outline planning application, a full accommodation schedule has not yet been provided. However, as supported by policy CP3, a good choice of housing types should be provided, including as affordable, to ensure the delivery of a reasonable and proportionate mix to the open market homes so that a balanced combination of affordable housing is delivered that meets the wide variety of housing need of local households.

The tenure split has also not yet been referenced in the amended application documents. However, I would suggest that this is in line with current policy and recommend that in the first instance 90% are provided as affordable/social rent tenure (32 homes) with 10% as Intermediate/Shared Ownership Housing (3 homes). First Homes may also want to be considered as part of this application, with 25% being provided as this new tenure and this can be taken up further with the Developer and Registered Provider (RP) when required. As supported by policy's DM8 and CP3, the affordable homes should be designed for use by disabled and made available for a variety of groups including families, vulnerable and older persons households.

Along with housing need demonstrated on the Council's Housing Register and with the requirements of the Equality Act, I would recommend that 2 affordable/social rent tenure homes are provided to Part M4(3) building regulation standard (wheelchair user dwelling). The remaining affordable homes should be provided as Part M4(2) standard (accessible and adaptable dwellings)."

KCC Ecology Officer -subject to conditions raises no objections. During the course of the application, the Councils Ecologist requested the following information:

- Confirmation that the ash trees with bat potential will be retained, and the lighting can be designed to avoid impacting them.
- Submission of an Impact Assessment and Conservation Payment Certificate to demonstrate that the scheme has been accepted on to the District Level Licencing Scheme.

The Ecologist has confirmed that the following additional information was provided to address the above points:

- The Ash trees with suitable bat roosting features will be retained on site.
- The site has been accepted on to the Impact Assessment and Conservation

The Ecologist also made the following points:

Birds

When we previously commented we raised concerns that insufficient information had been provided assessing the likelihood of the field being used by wintering birds – particularly those associated with the Swale SPA, Ramsar and SSSI. We have reviewed

the survey data and we are satisfied that the bird recorded are not associated with the designated sites and the site does not provide functionally linked habitat. As such we are satisfied that no further survey information or mitigation is required. The submitted surveys have confirmed that the site provides suitable habitat for breeding birds and therefore if planning permission is granted precautionary mitigation for nesting birds must be implemented.

Hedgehogs

Hedgehogs may be present within the site and therefore precautionary must be implemented during construction works and hedgehog highways must be included within all close board fencing to ensure connectivity is retained.

Enhancements

Limited recommendations have been made for ecological enhancements and 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 open space and the built environment provides opportunities for enhancements within the site and therefore we recommend that details of how the dwellings and open space be enhanced for biodiversity will be implemented must be submitted as a condition of planning permission.

There is a need to ensure that the area of open space is managed appropriately to benefit biodiversity and therefore we recommend that the site wide management plan must demonstrate that the site will be managed to benefit biodiversity.

Lighting

Lighting can have a negative impact on foraging, commuting and roosting bats and therefore there is a need to ensure that the any lighting associated with the development is designed to minimise light spill within the open space and in particular on the Ash tree with bat roosting potential. We recommend that any lighting condition requires the lighting plan to avoid light spill in to the open spaces and on the Ash tree with bat roosting potential.”

KCC Archaeology - raised no objections, subject to conditions and made the following comments:

I note that the application is supported by an archaeological deskbased assessment by Lanpro and the results of a geophysical survey by Headland Archaeology.

The site lies on southward sloping land below the high ridge that forms the northern spine of Sheppey. The underlying geology is London Clay. Although the DBA identifies a lack of archaeological findings in the site or in the immediate vicinity, archaeological fieldwork on the isle of Sheppey has clearly demonstrated the presence of multi-period archaeology on the hill slopes between Minster and the marshlands to the south.

Development sites such as Thistle Hill, Scocles Road and at Norwood Quarry have all revealed elements of Sheppeys archaeological landscape. Anglo-Saxon remains have been found on the high land to the north at St Georges School. The geophysical survey of the site has identified a small number of linear features thought to be associated medieval or post medieval land division. One enclosure seems to predate the pond that

lies to the north of the site and is illustrated on early maps. Whether this is associated with the former medieval Borstall Hall that sat immediately north is of interest.

The geophysical survey also identifies a palaeochannel running through the site. It should be noted that geophysical survey on the London Clay geology of Sheppey has had limited success and the geology is also not very conducive to providing cropmark evidence.

The desk-based study has also not identified the significant First World War defences that are found on the high land around Minster and Sheppey coastline. The land immediately north of the site was an important defensive position with trenches and barbed wire flanking the northern side of the proposed development site and protecting the eastern flank of the high ground at Minster village.

Given the background potential for significant archaeological remains to be present in the site that may be affected by development groundworks I recommend that in any forthcoming consent provision is made for an archaeological evaluation and subsequent mitigation through a condition:

KCC Highways -had a lot of dialogue with the appellants during the application process. These are their latest comments:

The applicant has provided an updated Transport Technical Note reference S11099-JNP-66-XX-RP-T1007 to address the outstanding issues that were raised in my previous consultation response of 20th January 2022, and I am able to respond as follows to this:

Scocles Road Traffic Calming

Subsequent to the production of the latest technical note, I have been in discussion with the highway consultant regarding the scheme proposed at the time of the note, and the position of the measures have changed from those referred to in that document. The uncontrolled pedestrian crossing shown on drawing S11099-JNP-66-XX-DR-C-2009 is now replaced by a speed restraint feature that incorporates a crossing point at a location further south than the previous feature. This crossing point and speed restraint feature shown on drawing S1109- JNP-66-XX-DR-C-2009 Revision P02 is considered to be more appropriate.

It also provides footway widening from Nelson Avenue to a crossing point, where pedestrians will be able to connect to the continuous footway provision on the west side of Scocles Road. Swept path analysis has been submitted to demonstrate that vehicle movements from the existing accesses in the vicinity of the proposed highway works can be accommodated satisfactorily. I consider that the scheme, as submitted now, with the other speed restraint feature at the northern end of Scocles Road shown on drawing S11099-JNP-66-XX-DR-C-2003 Rev P01 would be acceptable to encourage lower vehicle speeds and improve pedestrian connectivity. I would however like to see the drawing amended to reflect the revised position of the southern feature too.

Cumulative Assessment

In acknowledgement of the two other development proposals nearby currently submitted for planning approval, if this particular development were to be approved, it would be expected to contribute towards any off-site junction improvements that may be identified. That study is currently being undertaken by others and I hope to be able to provide an update on that shortly, which will inform the level of S106 contribution sought. In the

meantime, I would be grateful if you could forward any additional information or amended plans received for my further consideration

Officer update: I have spoken to the KCC Highways Officer, and he has concluded that this application is unlikely to cause significant strain on Barton Hill Junction, that certainly no more than 6 cars in a queue at any one time and he is satisfied that the applicants are mitigating their own highways impacts through the installation of the traffic calming measures on Scocles Road. He is also now happy with the revised position on the southern feature.

Greenspaces Manager: No comments received

Kent Police -made the following comments

If this application progresses, the points below are site specific and designed to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety and to meet our and Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998.

- 1. The level of permeability must ensure routes are well-designed to create safer accessible neighbourhoods with maximum natural surveillance but avoid excessive permeability often linked to increased crime rates. The proposed trail around the perimeter of the application site with the placement of access points can increase the opportunity for crime so we request this be readdressed.*
- 2. Vehicle mitigation will be required at key points to avoid crime and ASB, particularly vehicular and by those on cycles, mopeds and suchlike that can deflect other users and increase the fear of crime.*
- 3. Perimeter treatments to help protect adjoining properties, boundary and divisional treatments including lockable gates of 1.8m min. Front boundaries for corner properties of 1m max are required to minimise the opportunity for desire lines that can cause conflict.*
- 4. A parking plan will be required to meet SBD standards. Particular attention is required to ensure an appropriate level of surveillance. Any garages need to be appropriately secured, Car barns can provide a secluded space for criminality and ASB, especially if they have walls, roof and inadequate natural surveillance from active windows.*
- 5. The car parking court is a significant problem. To minimise the opportunity for crime, vehicles should be parked on plot or in locked garages where the resident can see their vehicle from an "active" window e.g. lounge or kitchen. SBD discourage rear parking courtyards for the following reasons: "They introduce access to the vulnerable rear elevations of dwellings where the majority of burglary is perpetrated; In private developments such areas are often left unlit and therefore increase the fear of crime; Un-gated courtyards provide areas of concealment which can encourage antisocial behaviour." Therefore if they are essential for the development then they should always be gated with access control.*
- 6. Security should be provided for Motorbikes, Mopeds, E bikes and similar. Ground or wall anchors can help provide this.*
- 7. A lighting plan is required, it should be approved by a professional lighting engineer e.g. a Member of the ILP or the SLL. When residents deem lighting inadequate, they install their own security lighting and that often causes conflict and light pollution.*

8. *All external, apartment, patio and French doorsets should meet PAS 24: 2016 UKAS certified standard, STS 201 or LPS 2081 Security Rating B+. Please Note, PAS 24: 2012 for ADQ has been superseded and should be avoided.*
9. *Windows on the ground floor or potentially vulnerable e.g. from flat roofs should also meet PAS 24: 2016 UKAS certified standard.*
10. *Any apartments to meet SBD Homes 2019 guidance.*
11. *If approved, site security is required for the construction phase. There is a duty for the principle contractor “to take reasonable steps to prevent access by unauthorised persons to the construction site” under the Construction (Design and Management) Regulations 2007. The site security should incorporate plant, machinery, supplies, tools and other vehicles and be site specific to geography and site requirements.*

Climate Change Officer – made the following comments:

“I appreciate that this is an outline application and that energy, water and sustainability will be dealt with at the reserved matters stage

The documents provided, and not updated since the original application in 2020 are very thin on detail.

The Design and Access statement on page 32 states that low carbon lighting, triple glazing and improved insulation will be used. Where possible orientation will be for solar gain. The Sustainability Statement at 4.4.4 refers to Building Regs part L – these have been updated recently.

At 4.4.6 implies that renewables will only be consider if a fabric first approach can't meet Building Regs.

There is no acknowledgement of SBC's Climate and Ecological Emergency Declaration nor our ambitious targets. A more robust consideration of renewably energy is needed. There is no mention of EV charging points the provision of which should follow our parking SPC.”

Public Right of Way Officer – raised no objections, subject to a contribution **£56,300** for the diversion of the Public Right of Way ZS8 and for it resurfacing. He made the following comments

“Further to our previous correspondence prior to the amendment of number of dwellings, the Parameters Plan now shows a proposed diversion of the Footpath to avoid conflict with the residential areas. The applicant will need to apply to divert the path through the Town and Country Planning Act 1990, where the existing route will be affected by the development.

We advise the applicant to engage directly with KCC PROW for details of this process in order to ensure the diversion and therefore development are completed in a legal and timely manner. However, the applicant is reminded that the granting of planning consent does not entitle the developer to obstruct PROW and the existing route must be kept open and safe for all users until such time as the Order necessary for its diversion has been confirmed and the new route provided.

A temporary closure may be possible; however, this is subject to a suitable alternative route approved by KCC PROW and Access Service in advance. With regards to the proposed diversion alignment, we would request that the applicant engage with KCC PROW as a matter of urgency, to clarify the alignment and details of the proposed route as shown on the Parameters Plan. Public Footpath ZS8 should be accommodated within an open green corridor and the route should be carefully designed so that the right of way is safe, secure and attractive to use. Both national policy and Kent Design guidelines clearly state that pedestrian and cycle routes should be overlooked within open and welcoming environments, to prevent fear and intimidation. Planting should also be kept to an absolute minimum, to ensure there are clear lines of view from properties and publicly accessible open spaces. KCC PROW and Access Service will need to approve this proposal.

*The junction of ZS8 onto Elm Lane must ensure public safety, given the nature of the road is a rural lane used by pedestrians, in light of the increase in traffic from the proposed development. The proposed alignment appears to be on a bend in the lane, a distance from the existing junction. See engagement advised above. PROW network development With regards to the remaining section of Public Footpath ZS8, located outside the development site boundary, it is noted in the Draft Statement of Common Ground that a Section 106 contribution of **£56,300** is agreed to upgrade the surface and accessibility of Public Footpath ZS8.*

Finally, consideration should be given to upgrading the status of Footpath ZS8 to enable cycling, as this would provide a direct off-road link between the development site and Minster. The provision of a cycle route would support the sustainable transport aspirations of the applicant, by increasing active travel opportunities that provide realistic alternatives to short distance car journeys. The applicant should explore the possibility of upgrading this existing route for cycling with neighbouring 3rd party landowners, as new cycle access rights would need their support.

Summary Public Footpath ZS8 passes through this application site and is directly affected by the proposal. The KCC PROW and Access Service welcomes engagement with the applicant to confirm and approve the path details and legal process to ensure a timely and legal diversion.

Swale Footpaths Group -made the following comments

"Public footpath ZS 8 crosses the site, though not shown on the applicant's "existing site location". They answer "No" to the question on the application form about whether a diversion would be sought, but their "Indicative site layout" suggests that some diversion would be needed and that much of the current line of ZS 8 would become a path between houses.

ZS 8 is now a very useful path as it gets walkers off roads with no pavements and the section covered by this application offers extensive views. If this application is granted (and I accept that this will be decided on a range of issues) measures to protect privacy and prevent crime will need to be considered and acted upon at the outset, not left until the houses are finished. An acceptable temporary diversion will probably be required too."

Rural Land Specialist -raised no objection and made the following comments

The application would involve an area of some 6.3 ha (14.8 acres) of agricultural land, which appears to have been kept as grassland for many years.

The land was the subject of a detailed Agricultural Land Classification Study, prepared by Soil Environmental Services Ltd. and dated 08 June 2020. This study found that virtually all the site has a heavy silty clay loam topsoil, (non-calcareous), and a Wetness Class of III, where Field Capacity Days are 94.4. This places the land in category Grade 3b (moderate quality) apart from a very small area of Grade 4 (poor quality) due to a steeper slope.

This is confirmed at the bottom of Page 8 of the report, although Table 3 above puts the two areas incorrectly in the “3a and 3b” rows rather than the “3b and 4” rows. The correct grading (3b and 4) is shown in the coloured map at Drawing 1.

Consequently, none of the land falls within the “Best and Most Versatile” (BMV) category.

Paragraph 112 of the NPPF states:

“Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”

The more detailed Policy DM 31 of the Council’s Local Plan (2017) states:

“Development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. Development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:

- 1. The site is allocated for development by the Local Plan; or*
- 2. There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and*
- 3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high quality agricultural land”.*

Regarding Paragraph 112 of the NPPF, I would not regard the use of 6.3 ha of longstanding grassland, that is very largely Grade 3b, as a “significant” development of agricultural land, but in any event the proposal for development of non-BMV land here would be consistent with the advice in Paragraph 112 to prefer poorer quality land to that of a higher quality.

Under Local Plan Policy DM31, the first aspect to consider is whether this particular development on agricultural land arises from an “overriding need that cannot be met on land within the built-up area boundaries”. This is not a matter within Rural Planning Limited’s advisory remit. However, assuming the “overriding need” test were met, policy DM31 would appear to be satisfied since the proposal is not for “development on best and most versatile agricultural land”.

NHS: They have requested contributions of **£86,400** towards capacity improvement works to any one of the following practices

- Sheppey NHS Healthcare Centre
- Sheerness Health Centre – Dr Patel

- Sheerness Health Centre – Dr Witts
- Sheppey Healthy Living Centre
- The Om
- St Georges Medical Centre

This contribution is sought because there is currently limited capacity within existing general practice premises to accommodate growth in this area. The need from this development, along with other new developments, will therefore need to be met through the creation of additional capacity in general practice premises.

This contribution being sought is based on the following calculation.

The application does not detail unit sizes; the calculation below should be updated (based on the above unit sizes and predicted occupancy) once the dwelling mix is confirmed at a later date. 100 units X 2.4 average occupancy = 240 people
240 people X £360 = £86,400

KCC Developer Contributions -the officer has requested the following contributions to mitigate the impact of the development.

	Per 'Applicable' House (x100)	Per 'applicable' Flat	Total	Project
Primary	£6,800.00	£1700.00	£680,000.00	Towards the new 2FE Primary School construction upon land at Rushenden, Queenborough or provision within the Sheppey Central Primary Education planning group
Special Education Needs and Disability Education	£1051.82	£262.97	£105,182.00	Towards expansion of the new Special School on the Isle of Sheppey and additional provision through existing SRPs in mainstream schools in the vicinity
Secondary Education	£4,540.00	£1135.00	£454,000.00	Towards Highsted & Borden Grammar School expansions

	Per Dwelling(x100)	Total	Project
Community Learning	£16.42	£1,642.00	Contributions requested towards additional equipment and classes at Sheerness Adult Education Centre
Youth Service	£65.50	£6,550.00	Contributions requested towards additional Youth Service resources locally
Library Bookstock	£55.45	£5,545.00	Contributions requested towards additional services and stock at Minster Library
Social Care	£146.88	£14,688.00	Specialist care accommodation in Swale District
Waste	£183.67	£18,367.00	Towards MRF and additional capacity at the HWRC & WTS in Sittingbourne

Broadband:	<p>Condition: Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mbps) 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>Reason: To provide high quality digital infrastructure in new developments as required by paragraph 114 NPPF.</p>
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7.0 Background Papers and Plans

- 7.1 The application has been supported by a significant number of drawings, assessments, and reports. These include the following:

Drainage Response by Flood Risk UK dated December 2020; Landscape Visual Impact Assessment by AAH Planning Consultants dated May 2021; Preliminary Ecological Survey by Delta Simons dated August 2020; Wintering Birds Survey by Delta Simons dated March 2021; Site Location Plan (CAL011119 MP-01 Rev C) by Clendon Architecture (1:1250 at A2); Proposed Indicative Site Layout Plan (CAL011119 MP-05 Rev H) by Clendon Architecture (1:1000 at A2); Proposed Indicative Landscape Strategy Plan (CAL011119 MP-09 Rev G) by Clendon Architecture (1:1000 at A2); Transport Assessment Addendum by JNP Group reference S11099-JNP-66-XX-RP-T-1004- P1 dated January 2021; Highways Technical Note by JNP Group reference S11099-JNP-66-XX-RP-T-1005 December 2021 including Drawing Numbers DR-C-2009 – Scocles Road Pedestrian Crossing; DR-C-2007 – 49 Scocles Road Swept Path Analysis and DR-C-2008 – Petfield Swept Path Analysis; Highways Technical Note by JNP Group reference S11099-JNP-66-XX-RP-T-1007 February 2022; DR-C-2009 Scocles Road Pedestrian Crossing; DR-C-2007 – 49 Scocles Road Swept Path Analysis; DR-C-2008 – Petfield Swept Path Analysis; DR-C-2009-PO2 Scocles Road Traffic Calming Pedestrian Crossing; DR-C-2010 and Scocles Road Traffic Calming Pedestrian Crossing Swept Path Analysis by JNP Group.

8.0 APPRAISAL

Principle

- 8.1 The Council cannot currently demonstrate a five-year housing land supply. The current supply is 4.8 years. In this regard Paragraph 11.d (known as the ‘tiled balance’) of the NPPF is triggered.
- 8.2 Paragraph 11.d makes it clear that relevant policies relating to the supply of housing should not be considered up to date if the Council cannot demonstrate a five-year supply of deliverable housing sites, and that there should be a presumption in favour of sustainable development, unless:

*“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

“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” (paragraph 11.d.(ii)).

**the list includes heritage assets*

- 8.3 However for reasons set out in the section below, the development would result in material harm that would significantly and demonstrably outweigh the benefits of the

scheme (also set out in the following chapters). Therefore, the principle of development in this location is unacceptable.

Landscape and Wider Impacts

- 8.4 The appeal site is not a designated landscape area but as open countryside it has value as visual amenity from the public realm. Unsurprisingly, given that open space once built upon is lost forever, this amenity value is protected by both national and local planning policies.
- 8.5 At National level, the NPPF, in paragraph 174 criterion (B) states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
- 8.6 Paragraph 130 criterion (C) of the NPPF requires policies and decisions to be sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 8.7 Paragraph 20 criterion (D) of the NPPF makes clear that as part of a Local Plan, Councils' Strategic policies should set out an overall strategy for the pattern, scale and design quality of places which includes the:
- “conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation”*
- 8.8 Paragraph 185 of the NPPF reinforces these points by stating:
- “Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development...”*
- 8.9 The Local Plan policy DM24 states that the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced, and, where appropriate, managed. Moreover, Part B of this policy makes it clear that when a development results in having significant adverse impacts on the borough's landscape, the social and or economic benefits of the proposal will need to significantly and demonstrably outweigh the harm to the landscape character, and value of the area.
- 8.10 Part C of this policy also requires development inside the borough's landscapes to be informed by Landscape and Visual Impact Assessments (LVIA). The applicants have submitted two Landscape and Visual Impact Assessments. The second LVIA, dated June 2021, supersedes the first. The Council instructed Huskinson Brown to independently review this LVIA. Their conclusions are summarised later in this chapter.
- 8.11 The appellants have made reference to the Landscape Assessment of Kent, published in 2004 which analyses 'Character Areas. However, it should be noted that this document did form part of the evidence base of the Local Plan 'Bearing Fruits' 2017. Given that it is published 18 years ago, long before the NPPF, and has been superseded by more recent, up-to-date landscape assessments it is considered to be an historic document and only very limited weight can be attached to it.

- 8.12 Swale’s Landscape Character and Biodiversity Appraisal (2011) is also relevant as it provides a framework for Development Management decisions on matters of landscape character. The application site lies within Swale’s Landscape Character Area 16 (Minster and Warden Farmlands). Some of the key characteristics of the area include rolling topography with mixed geology of London clay, Claygate beds, Bagshot beds and head gravel.
- 8.13 Whilst this chapter describes the overall condition of Swale’s Landscape Character Area 16 as being “poor”, it should be noted that this description relates to the character area in the round and does not reflect the condition of the geology and landscape of each individual parcel of land in that area, which varies enormously.
- 8.14 Certainly, over many years, a number of caravan sites and urban fringe activities like horse grazing and playing fields, and wire fences have sprung up and eroded the quality of certain parts of Landscape Character Area 16. However, large parts of attractive landscape remain and therefore it is imperative that the remaining attractive landscape parts of this area are retained, given the poor condition of the other parts.
- 8.15 In 2018, the Council commissioned Land Use Company (LUC) to carry out and produce the Swale Landscape Assessment (2019). LUC have created a five-point rating system from low to high to establish the sensitivity of the landscape.
- 8.16 To put LUC’s five-point rating system into context, I have set out their Landscape Sensitivity Table below:

Sensitivity Judgement	Definition
High	The key characteristics and qualities of the landscape are highly sensitive to change. It is unlikely to be able to accommodate the proposed change without significant character change/adverse effects.
Moderate-high	The key characteristics and qualities of the landscape are sensitive to change. There may be very limited situations/locations where the relevant change can be accommodated
Moderate	Some of the key characteristics and qualities of the landscape are sensitive to change. It may have some potential to accommodate the relevant change in defined locations.
Low-moderate	Few of the key characteristics and qualities of the landscape are sensitive to change. They are resilient and have some potential to accommodate the change proposed.
Low	The key characteristics and qualities of the landscape are robust and are either unlikely to be subject to change or are not sensitive to the change proposed.

- 8.17 In the Swale Landscape Assessment, the appeal site forms part of a Landscape Sensitivity Parcel that LUC has named MR5. LUC have classed MR5 as being “**moderate-high**” on their five-point landscape sensitivity scale: a clear indication that they consider this rural area to be sensitive and well worth safeguarding.

- 8.18 Indeed, in their summing up, as well as commenting that *“the landscape retains a rural character despite modern developments and a degraded landscape condition in places”*, they wrote:

“The undulating landform, with distinctive hills forms a backdrop to much of Sheppey, is visually prominent and offers expansive views to the north and south. It also has an important role as part of the rural setting for Minster and provides separation from Eastchurch, and a rural gap along the undeveloped coast to the north. These attributes, indicate a moderate-high overall sensitivity to residential development”

- 8.19 The summary goes on to add:

“The visual prominence of this area and the fact that any large-scale development has the potential to be a highly visible within this sensitive landscape means that the area has a high overall sensitivity to employment development”

- 8.20 The appeal site is not a poor quality, flat, backland development opportunity site. With its steep slopes, close relationship with neighbouring green fields and lack of tree coverage, it forms part of the open rolling countryside that defines the eastern side of Minster-on-Sea and is a key characteristic of this part of the island. The quality of openness washes all over the site.

- 8.21 Once facing the site from the entrance to the Public Right of Way from Elm Lane (next to a property known as The Elms), its rural surroundings is immediate; it is very clear to the walker that they have left an urban settlement and reached open countryside. The walker does not have to go very far into the appeal site to experience magnificent short and long views of the open countryside, which stretch as far as the mainland (NB: there are also views of this site from Marshes¹ and the bridge connecting the Isle of Sheppey to the mainland). The rural nature of Elm Lane itself, which is narrow and bounded by mature hedging, reinforces the feeling of being in the open countryside.

- 8.22 Although parts of the northern, eastern, and western boundaries of the site contain mature hedging, there are significant vantage points between the hedges, from neighbouring properties, Elm Lane and on the Public Right of Way, which offer uninterrupted views of attractive open space.

- 8.23 Building housing on this site (which is a significant portion of this countryside gap) would reduce the effectiveness of their role as open countryside in an important position and remove its permanence. It would result in the urbanisation of vital countryside and irrevocably alter the rural character of the area.

- 8.24 Moreover, allowing housing development on this appeal site would set a precedent for further housing in this location, exasperating the harm further still. This is not an unreasonable assumption to make, given that there is a planning application (21/502256/OUT) for 74 houses on the immediately adjoining parcel of land to the west.

- 8.25 In short, in my opinion, the provision of housing will detract from the openness of the site in this sensitive location, where people come to walk and enjoy the distinctive and special quality of the area.

- 8.26 This conclusion is shared by Huskinson Brown in their independent review of the appellants LVIA. In addition to raising significant questions (see **Appendix A**) regarding

¹ LUC, on page A1.120 in the Swale Landscape Assessment (2019) describe this site as being “a prominent backdrop in views from the marshes”.

the quality and methodology of the appellants' LVIA (they do not believe the methodology meets the standards of 'Guidelines for Landscape and Visual Impact Assessment 3 (GLVIA3) and have questioned the proportionality of the overall approach), Huskinson Brown have concluded (paragraph 5.9) that the LVIA baseline findings (and those of published landscape character assessments and sensitivity studies) do not suggest that this is a landscape able to sensitively accommodate the development proposed without undue harm to the landscape character and visual amenity.

- 8.27 This opinion is emphasised in the next paragraph of their review (5.10, page 22) which states that *"the proposed indicative landscape mitigation is inadequate to mitigate the permanent adverse effects that could arise from the scheme"*.
- 8.28 Moreover, in the closing paragraph (5.13, page 23), Huskinson Brown makes clear that: *"Whilst the LVIA is substandard, other than its skewed conclusion, its core findings are probably sufficient for Swale Borough Council to conclude that the development of the site would give rise to substantial landscape and visual harm."*
- 8.29 It is also notable that during that emerging 'Bearing Fruits Local Plan process, the Inspector invited the Council to undertake minor modifications needed to make the plan sound and thereby adoptable. As part of this process, the appeal site was reviewed and then discounted for a number of reasons, including.

"Due to the steep topography and relationship with Minster, there would be significant and major landscape and visual harm and loss of a green wedge between developments, all arising from this site which could not be mitigated to acceptable levels where benefits would outweigh the harm. The site would also give rise to substantial harm to a designated heritage asset in terms of impacts upon views to of Minster Abbey and its hill top setting..."

Development would also significantly harm the extensive and long distance views of the Swale marshes to the south and be detrimental to the amenities and functioning of the footpath across the site...

There would also be detrimental erosion of a green wedge between developments."

- 8.30 The Councils assessment and reasons for rejecting this site were sent to, and supported by, the Planning Inspector.
- 8.31 It is also noteworthy that the site was considered and rejected for allocation by a Local Plan Inspector in 1998. Therefore, this site has been rigidly assessed by a number of people over a 24-year period and the same conclusion has been reached each time, which is that it is the wrong location for residential development.
- 8.32 For all of the reasons above, I believe the material harm brought about by the loss of this open countryside is a clear breach of the local plan and significantly and demonstrably outweighs the benefits of the scheme.

Loss of Agricultural Land

- 8.33 Loss of Agricultural Land Policy DM31 of the Local Plan states that development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. It adds that development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:

1. The site is allocated for development by the Local Plan; or
2. There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and
3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land.

8.34 The appellants have submitted a detailed Agricultural Land Classification Study (prepared by Soil Environmental Services Ltd), which was reviewed by the Council's Rural Land specialist. He agrees Soil Environmental Services conclusion that most of the land is in Category Grade 3b (moderate quality) and that a small area of the site is Grade 4 (poor quality) due to a steeper slope. Consequently, none of the land falls within the "Best and Most Versatile" (BMV) category.

8.35 Whilst 6.4ha is a significant amount of agricultural land to develop, as there is an overriding need for housing at the present time, and because none of the land is within the Best and Most Versatile category, the terms of this policy has been met and it would be acceptable to build houses on this location, subject to other matter planning matters also being acceptable.

Housing

8.36 The Council, at the time of writing this report, has a housing shortfall (albeit a marginal one) and I agree with the appellants that some weight should be given to the positive benefit of a contribution to addressing that shortfall.

8.37 Another spin-off benefit of housing is the economic benefit through employment during the construction period and new residents supporting the viability and vitality of local shopping centres and individual shops and restaurants.

8.38 Although the site is not allocated in the local plan and sits outside the development limits of Minster-on-Sea, it is in a reasonably sustainable location: it is in relatively close proximity to shops, community facilities, and a limited bus service in relatively easy walking distance from the site. This reasonable level of amenities is what places Minster-on -Sea in the 'Other Borough Urban and Local Centres' of the settlement hierarchy set out in Policy ST3 of the Local Plan (2017).

8.39 However, the benefits housing would bring needs to be weighed against the detrimental effects of the proposal which, outlined in the landscape and wider impact section above, breach the development plan and result in significant harm. My view is that the harms would remain permanent and enduring whereas the benefits will primarily address a short-term difficulty faced by the Council in making adequate provision to meet its housing needs. And these needs will be addressed through the development plan making process, in any event.

Affordable Housing

8.40 Affordable Housing Policy DM8 of the adopted Local Plan does not require any affordable housing provision on the Isle of Sheppey. However, the applicants, in their Statement of Case and Draft Statement of Common Ground, have recently offered to provide 35% affordable housing provision in this development.

- 8.41 Of the total number of affordable units, the Council would seek an indicative target of 90% affordable/social rent and 10% intermediate products. The supporting information outlines a commitment to deliver this split.
- 8.42 As there is an unmet need for affordable housing across the borough, it is recognised that this element of the proposal, if delivered, would be a tangible benefit and considerable weight should be given to it. However, it is also worth noting that, to date, no Unilateral Undertaking has been submitted to the Council to secure the affordable housing, nor has a S106 Agreement has been signed. Presently, no weight can be attached to this offer.
- 8.43 Subject to a legal agreement being signed during the appeal process that would secure the affordable housing, this element of the proposal is acceptable, although it would not outweigh the permanent harm the overall development would result in.
- 8.44 My view is that the harm caused by the development cannot be justified by reference to housing supply. Whilst the provision of housing, including 35% affordable, is a material benefit, there is no overriding policy support for its delivery at the expense of loss of attractive open countryside, the sense of openness and the quiet enjoyment of a public right of way.

Residential Amenity

- 8.45 The National Planning Policy Framework (the Framework) identifies, as a core planning principle, that planning should always seek a high quality of design and a good standard of amenity for all existing and future occupants of land and buildings.

Policy DM14 is in line with this core planning principle and makes clear that development should provide good levels of amenity: it specifies that development should cause no significant harm to amenity and other sensitive uses or areas. This includes consideration of overlooking which should not unduly prejudice the operation of adjoining land through negative impacts on privacy.

- 8.46 I note the concerns raised with regard to their amenity by residents of the area, but the indicative plans show, and the parameter plan would fix the layout so that there is a minimum of 21m separation distance between the neighbouring properties and the future residential units.
- 8.47 Given this significant separation distance, the proposal is unlikely to result in the loss of daylight/sunlight, privacy or overbearing impact on the occupiers of the neighbouring properties. Similarly, I do not believe future occupiers of this development would suffer from poor quality amenities either. The parameter plan fixes the heights of the building in accordance with the relevant gradient of the site to prevent overlooking, overshadowing or an overbearing impact being an issue.

Unit Mix

- 8.48 Paragraph 62 of the NPPF establishes that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. Policy CP3 of the Local Plan requires new development to achieve a mix of housing types, reflecting the findings of the current Strategic Housing Market Assessment or similar needs assessment along with meeting the housing requirements of specific groups, including families, older persons, or disabled and other vulnerable persons.

- 8.49 Figure 5.3.1 in the Local Plan forms the starting point for negotiations on the percentages sought in respect to housing mix. This establishes the following ratio:

Unit Size	Percentage requirement
1 bed	7%
2 bed	36%
3 bed	42%
4+ bed	15%

- 8.50 The application proposes a total of 100 units. Details of the unit mix are not provided at this stage. In the event that the Planning Inspector grants outline consent, it is recommended that a condition be imposed to secure the unit mix in accordance with the local plan or latest requirements.

Wheelchair Units

- 8.51 Policy CP3 requires developments to meet the housing requirements of specific groups, including housing for disabled and other vulnerable persons. This is in line with paragraphs 62 and 112 of the NPPF.
- 8.52 Planning Practice Guidance makes clear that the provision of appropriate housing for people with disabilities, including specialist and supported housing, is crucial in helping them to live safe and independent lives.
- 8.53 The requirement for appropriate housing for people with disabilities could potentially be conditioned if consent is granted on appeal

Open Space

- 8.54 Greenspaces play a vital role in calming urban environments and providing an escape from high population density. They provide opportunities for leisure and exercise with a range of associated health benefits and have an important cooling effect in urban areas.
- 8.55 The Local Plan places great emphasis on the value of open spaces and their role in providing a good quality environment. Policies CP7 (Conserving and Enhancing the Natural Environment) requires new development to “protect the integrity of the existing green infrastructure network”.
- 8.56 This policy is reinforced by Local Plan Policy DM17 (Open space, sports and recreation provision) which states that:

“proposals for residential and other developments as appropriate will:

1. Safeguard existing open space, sports pitches and facilities in accordance with national policy, having regard to the Council’s open space assessment and strategy and facilities planning mode”

- 8.57 Policy DM17 also seeks to ensure that new residential developments provide adequate levels of open space and, where that is not feasible, contributions should be provided to improve and increase the capacity of existing spaces.
- 8.58 The appellants have submitted a parameter plan (drawing CAL011119.MP.11) which, visually, appears to provide a generous amount of usable public open space, although,

at the time of writing this report, the total level of provision in sqm is not known. I shall update members at planning committee.

- 8.59 In providing this space, the relevant local plan policies are satisfied and I believe it would be a benefit of the proposal.

Local Green Space

- 8.60 The proposal is adjacent an area of Local Green Space. The proposal would not result in new development within the designated site itself. Policy DM18 deals with proposals within designated Local Green Spaces. Given the fact that the proposal would not result in new development within the designated site itself, this would not constitute a clear reason for refusal, as per Paragraph 11(d) of the NPPF.

Heritage Impacts

- 8.61 The NPPF confirms that the Government attaches great importance to the design of the built environment, and notes that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning policies relevant to design and conservation are set out in the Local Plan 2017 (policy C8) and paragraphs 189 to 207 of the NPPF.

- 8.62 The revised NPPF (paragraphs 197) states that:

“In determining applications, local planning authorities should take account of:

- a) desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) desirability of new development making positive contribution to local character and distinctiveness.”

- 8.63 And paragraph 199 of the 2021 NPPF adds:

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

- 8.64 Paragraph 201 of the NPPF goes on to explain that where a development proposal leads to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, where appropriate, securing its optimum viable use.

- 8.65 The Council’s Conservation Officer noted that, during the course of the application, a Heritage Statement was not submitted. However, as part of the appellants appeal submission, the appellants have now included a Heritage Statement.

- 8.66 The Conservation Officer has reviewed this document. He broadly agrees with its conclusions that the development would be at the lower end of the less than substantial

harm on the Abbey complex and the Grade II listed 49 Chapel Street, provided that a subsequent Reserved Matters Application allows views through the site of the Abbey to be maintained.

- 8.67 The Conservation Officer believes that the harm would be at the lower end of less than substantial harm because the proposal will not impinge on longer range views of the abbey complex from outside the east or southeast built-up edge of Minster, and that there are other important views of the Abbey on its hilltop from other destinations.
- 8.68 The Conservation Officer is also of the view that the abbey is not readily visible from the site, although, he notes, insufficient information has been provided to confirm this as no there is no evidence to show what the situation would be like during the winter months when intervening tree cover is reduced by loss of leaves.
- 8.69 The Conservation Officer also notes that the Heritage Statement has failed to consider the possibility of any non-designated assets that may be affected and linkages that there may be between any such non designated heritage assets, designated heritage assets and their individual and combined settings. The lack of adequate information in this respect to enable the LPA to make a properly informed judgement on heritage assets is unfortunate. However, given that the likely outcome of a review of further information, which can be secured via condition, is that the proposal would result in the lower end of less than substantial harm, this aspect does not warrant a refusal especially when weighed up against the housing benefits of the scheme.
- 8.70 The Conservation Officer has requested that the appellants pay a commuted sum to the necessary improvement of the churchyard area to the scheduled and listed Minster Abbey complex, as an important local amenity facility. Whilst I think this a laudable request, at the time of writing my report, I do not have any evidence before me to suggest that the money would be spent on capacity improvement works needed to absorb the additional people potentially using the church yard instead of maintenance works. For this reason, I am not convinced that a commuted sum would satisfy the CIL regs 122 which requires obligations to be reasonable and necessary to make the scheme acceptable in planning terms.

Layout

- 8.71 In respect of density, Policy CP3 (wide choice of high-quality homes) of the Local Plan requires density should be determined by the context and the defining characteristics of the area. This is in line with the NPPF's objectives to make efficient use of land as set out in Chapter 11. Paragraphs 124 and 125 are particularly relevant with paragraph 124 requiring decisions to support development that makes efficient use of land taking account of the requirements in parts a)-e) of the paragraph. The application proposes a total of 100 units. The total site area is 6.55 hectare, but the net developable area is not known at the time of writing this report. I will update Members at Committee.
- 8.72 The application includes an illustrative scheme. This plan is indicative only with the final design details to be provided at reserved matters stage, should the Planning Inspector grants outline planning permission .However ,although illustrative, it is useful to have, as it demonstrates that the site can provide a reasonable area of open space for future residents to use. It also shows that the site layout can configure the units with appropriate spacing and the units will not be crammed; the layout is consistent with the character of the surrounding residential properties; each unit benefits from appropriate amenity standards and swept path analysis has been undertaken to demonstrate vehicular movement will not compromise highways safety. As such, the density of the

scheme is considered to be appropriate and ensures efficient use of the land without compromise to the scheme.

8.73 Latterly, a parameter plan has been provided so the location of development and provision of open space, landscaping, cycle and pedestrian routes and a LEAP can be fixed by the imposition of a condition.

8.74 I note in the appellants Statement of Case that they are suggesting that:

“Overall, the development will seek to improve the landscape character and visual amenity of the site and its wider landscape setting by sustaining an appropriate amount and mix of housing types that will include important green space and linkages to the wider green infrastructure network of the Swale District

8.75 Whilst the indicative and parameter plans show that a reasonable scheme can be delivered on this site, no amount of landscaping around the houses will improve the landscape character and visual amenity of the site because attractive rolling countryside will, in essence, be lost by a housing development that, ultimately, would urbanise the countryside, to its detriment.

Trees

8.76 There are only a few trees on the site, and they are distributed on or adjacent to the northern and southern boundaries and within the central section of the site.

8.77 None of the trees have TPOs attached to them and the Arboricultural Assessment has concluded that most of the trees are worthy of retention and the central ones will need to be protected during the construction period. Only two trees (T5 -a black poplar and T16 -an Ash) would be lost, which are in poor quality condition and have lost their limbs and have a 1m cavity from their base, respectively.

8.78 There is also scope, during the reserved matters stage, to plant more trees in the landscaping areas set out on the parameter plan. Subject to detailed conditions, I believe this element of the proposal is acceptable.

Highways/Transport

8.79 Paragraph 111 of the NPPF sets out that development should only be refused on highways grounds when an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 92 promotes healthy, inclusive and safe places through a number of measures including ensuring streets are designed to allow easy pedestrian and cycle connections within and between neighbourhoods. This is further emphasised in Paragraph 104.

8.80 Policy DM6 sets out the requirements for managing transport demand and impact. The policy requires development proposals involving intensification of any existing access onto a strategic, primary or other route will need to demonstrate that it is of a suitable capacity and safety standard or can be improved to achieve such a standard. Policy DM 7 requires compliance with the Swale Vehicle Parking SPD. The policy further requires cycle parking facilities on new developments to be of an appropriate design and in a convenient, safe, secure and sheltered location.

8.81 There has been on-going dialogue between KCC Highways and the appellant. KCC had previously raised a number of concerns with the proposal but following the submission of revised plans, those concerns have been addressed to the satisfaction of the KCC

Highways Officer. It should be noted, however, that the planning department has sought independent advice from the transport consultancy, Project Centre, in response to the highway concerns raised by both the Parish Council and residents. An update will be provided to members at the meeting.

8.82 For completeness, KCC Highways concerns related to:

- The absence of a cumulative assessment of this development along with potential neighbouring developments on the Highway Network
- Insufficient width on the access point to the site to allow a car, lorry and pedestrians to pass at the same point
- The absence of a pavement to allow a safe and continuous footway between the site and Nelson Avenue/Scocles Road;
- Impacts on the local highways network, in particular, Scocles Road

8.83 The appellants responded by providing an updated Transport Statement which demonstrates that this proposal will not have a significant impact on the Highways network

8.84 Secondly, the appellants submitted revised plans and tracking information which demonstrates that each vehicle would be able to enter and exit the private accesses either side of the proposed buildouts, and that there is safe entry to the site for cars, lorries and pedestrians at the same time

8.85 The appellants also provided plans that now show that the pavement will connect the site to Nelson Avenue, allowing for a continuous footway to the western side of Scocles Way. This is welcomed, although I don't consider it to be a benefit of the scheme, as for highways safety reasons, it is an essential part of the proposal.

8.86 Lastly, the appellants also submitted drawing S11099-JNP-66-XX-DR-C-2003 Rev P02 which shows how a speed restraint feature on Scocles Road (that incorporates a crossing point at a location that the highways officer considers to be acceptable) will be provided.

8.87 These highways works to Scocles Road will improve the current situation because not only will they allow for a wider pedestrian area, but they will also slow the traffic down (presently there is a 30mph speed limit). Some weight can be attached to this aspect of the proposal, particularly as other potential developments in close proximity will not be contributing to these works

8.88 However, weighing against the proposal is the re-direction of the Public Right of Way (POW) ZS8. Having visited the site, read the neighbours comments and seen the advice of the Swale Footways Group, it is clear that this PROW is very well used. Indeed, the Swale Footways Group commented:

“ZS 8 is now a very useful path as it gets walkers off roads with no pavements and the section covered by this application offers extensive views”

8.89 By diverting the PROW to the edge of a new housing estate, my concern is that it will become far less used because the route would be substantially less interesting than at present with the rural countryside feel having been removed by the housing estate.

Public Right of Way

- 8.90 Cutting through the middle of the appeal site is a Public Right of Way (Public Footpath ZS8). As the proposal results in the diversion of this footpath, the appellants are required to apply for a Public Path Diversion Order under section 257 of the Town and Country Planning Act 1990. They have agreed to pay a contribution of **£56,300** towards the diversion and resurfacing of the Public Right of Way.
- 8.91 I am, however, concerned that the relocation of the Public Right of Way and the creation of a new housing estate on this rural open space, would result in reduction in the number of people walking and experiencing the mental and physical health benefits that go with that exercise, in such a striking rural location.

Biodiversity

- 8.92 The NPPF requires new development to minimise impacts on biodiversity and provide net gains in biodiversity, where possible. Local planning authorities are required to conserve and enhance biodiversity when determining planning applications and take opportunities to incorporate biodiversity in and around developments.
- 8.93 Policy DM28 also requires that development proposals will conserve, enhance, and extend biodiversity, provide for net gains in biodiversity, where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 8.94 Protected Species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material planning consideration.
- 8.95 Although there are a number of protected species on site, including bats, slow worm and Stag beetles the County's ecologist feels that a condition will allow for appropriate measures such as bat, bird, hedgehog (which while not a protected species that are considered to be endangered) and invertebrate boxes and Ibstock eco-habitat for Swifts, which will not only mitigate the impacts of the development but also lead to ecological enhancements.
- 8.96 Developer Contributions will also need to be provided due to the increase in dwellings within the zone of influence of a Special Protection Area, which could, potentially, result in harmful impacts on the SPA and Ramsar sites due to increased recreational disturbance. Natural England have reached the same conclusion. The contribution required, at £253.830 x per residential unit, amounts to £25,383. The applicant has agreed to pay this contribution, which will be secured via a S106 Contribution.
- 8.97 An Appropriate Assessment (which is attached as Appendix 1 to the report) has been sent to Natural England, who raised no objection.
- 8.98 Therefore, if a Unilateral Undertaking (UU) is provided or a S106 Agreement is signed, this aspect of the proposal would accord with Policy DM28 of the Local Plan and the NPPF. That there isn't a UU or signed s106 agreement before me as I write this report means that there is no guarantee that this obligation would be met, and the absence of the contribution forms weighs against the scheme and forms another reason for refusal.

Biodiversity Net Gain

- 8.99 With regard to Biodiversity Net Gain, the NPPF requires new development to minimise impacts on biodiversity and provide net gains in biodiversity, where possible. Local

planning authorities are required to conserve and enhance biodiversity when determining planning applications and take opportunities to incorporate biodiversity in and around developments.

8.100 Policy DM28 also requires that development proposals will conserve, enhance and extend biodiversity, provide for net gains in biodiversity, where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

8.101 To this end, the Council would be keen to ensure that all opportunities to incorporate measures to enhance biodiversity are designed into the proposals during the Reserved Matters stage, if planning permission is granted on appeal.

8.102 KCC's Ecology Officer raises no objection subject to condition. She is satisfied that the parament plan would allow sufficient landscaping and open space to provide Biodiversity enhancements to the site.

8.103 She has also reviewed the additional information provided by appellants and is satisfied that none of the birds on site are associated with the designated SPA and RAMSAR sites because the site does not provide functionally linked habitat

8.104 The submitted surveys have confirmed that the site provides suitable habitat for breeding birds and therefore if planning permission is granted precautionary mitigation for nesting birds must be implemented. Similarly, Hedgehogs, although not a protected species, may be on site and it is advised that a hedgehog highways be included within all close board fencing to ensure connectivity is retained. These points would have been secured by condition, had I been minded to approve the application, along with a sensitive lighting condition that would prevent light spill onto open spaces

Archaeology

8.105 Paragraph 194 of the NPPF requires that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

8.106 Policy CP7(8)(d) promotes the expansion of Swale's natural assets and green infrastructure by a number of factors, including contributing to the protection, conservation and management of archaeological assets. Policy DM34 also sets out that there will be a preference to preserve important archaeological sites in-situ and to protect their settings and directs refusal of schemes that fail to appropriately mitigate any adverse impacts.

8.107 It is noteworthy that a portion of the site and some of the land adjacent to the application site is classified as an Area of Archaeology Potential.

8.108 KCC's Archaeology Officer has been consulted on the proposal. He is of the view that, whilst the appellants Archaeological desk-based assessment did not find any significant remains on site, there is background potential for multi-period remains within the landscape given the considerable size of the development site (in what is mostly undeveloped land).

8.109 It is his view that it is possible that without further, deeper analysis, groundworks for the proposed new development could affect significant archaeological remains. It is on this basis that he recommends that, in the event of permission being granted, provision is made for an archaeological field evaluation which is to be followed by preservation in

situ of any important remains identified at the site and/or further archaeological excavation as appropriate.

8.110 Therefore, subject to an appropriately worded condition, this aspect of the proposal is acceptable.

Flood Risk/Drainage

8.111 Policy DM21 of the local plan sets out the requirements for water, flooding and drainage. The policy sets out a series of 10 criteria by which developments should adhere to. The Local Plan is consistent with the requirements of the NPPF which directs development away from areas of highest flood risk.

8.112 Using the Environment Agency flood risk map, it can be seen that the application site is located within Flood Zone 1, meaning it is an area with a low probability of river or sea flooding. Planning Practice Guidance confirms that the aim is to steer new development to Flood Zone 1. In respect of the Flood Risk Vulnerability Classification residential dwellings are classified as 'more vulnerable'. Within Flood Zone 1, Table 3 of the Planning Practice Guidance confirms that 'more vulnerable' uses in Flood Zone 1 are appropriate and an exception test is not required.

8.113 As the application site is greater than 1 ha a Flood Risk Assessment (FRA) is required and has been provided. The flood risk assessment is also accompanied by a drainage strategy.

8.114 In regard to flood risk, the report concludes that a scheme can be developed that does not increase the risk of flooding to adjacent properties and development further downstream.

8.115 The appellants proposed SuDS strategy favours runoff interception and storage as close to source as possible. Their Flood Risk Report states that *"since the geology indicates that infiltration is unlikely to be viable as a means of final surface water disposal, a connection to the existing watercourse at the southwest corner of the site is proposed, which would be restricted to greenfield runoff rates. The necessary attenuation storage is proposed to be provided via a series of swales, basins and ponds, which have been schematically modelled as a cascading storage network. The downstream watercourse drains through the residential area south west of the site before discharging to the main river, known as Scrapsgate Drain, which flows to the coast north west of Minster."*

8.116 The application has been subject to consultation with KCC Flood and Water Management, the Environment Agency, and Southern Water. Although I note concerns about drainage by the neighbours, the comments I have received from the statutory consultees have raised no objection subject to the imposition of conditions requested by Southern Water and KCC.

8.117 The principle of residential dwellings in Flood Zone 1 is considered acceptable. The application is supported by the necessary assessments and has been subject to relevant consultation which has found the proposal to be acceptable.

Environmental Matters (including Noise, Air quality and Contamination)

Noise and Vibration

8.118 NPPF Paragraph 174 requires planning decisions to contribute to and enhance the natural and local environment. The paragraph requires a number of measures to achieve

this including by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of environmental impacts including noise pollution.

8.119 Paragraph 185 requires that planning decisions ensure new development is appropriate for its location taking account of the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. The paragraph notes that this includes a requirement to mitigate and reduce to a minimum any potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

8.120 Paragraph 187 further states that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Further stating that existing businesses and facilities should not have unreasonable restrictions placed on them because of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

Noise

8.121 The Noise Impact Assessment by Delta-Simons recommends specified noise mitigation measures for certain bedrooms with either full or partial line of sight to Elm Lane. The report also advises noise levels generated by operation of the vehicle service and repair garage and noise level associated with use of the sports pitch fall below the adopted noise criteria levels, concluding to negligible noise impacts.

8.122 The Council's Environmental Health Officer would have liked to see the consultants contact the garage to ensure it was a business-as-usual day and used data from a site assessment. However, the consultant has suggested standard thermal acoustic double glazing for all dwellings in the whole development, which she considers to be acceptable.

8.123 As far as mitigation measures are concerned (i.e., acoustic trickle ventilator), the Environmental Health officer advises that the developer needs to identify, to the Local Authority, which plot numbers that will need to have those, and has suggested a condition to secure this.

Air Quality

8.124 Applications within or likely to impact on Air Quality Management Areas are required by Policy DM 6 to demonstrate that the proposal has integrated air quality management into the design to ensure proposals do not worsen air quality to an unacceptable degree.

8.125 The application site is not located in or near an Air Quality Management Areas and therefore measures discussed in DM6 are not required.

8.126 However, paragraph 186 of the NPPF goes a step further and states that Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account, not only the presence of Air Quality Management Areas and Clean Air Zones, but also the cumulative impacts from individual sites in local areas.

8.127 This paragraph adds that, “so far as possible, these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered”

8.128 As this site is not an allocated site and sits outside the settlement boundary the potential cumulative air quality pollution from this scheme and the neighbouring potential developments (also on unallocated land) were not a consideration during the plan-making stage of the Bearing Fruits Local Plan 2017. Therefore, it is sensible and reasonable to understand what the cumulative impacts might be. The Council’s Environmental Health Officer asked for this information, but it has not been received. Therefore, the Council is not in a position to assess the impacts and establish what mitigation measures might be required. For this reason, it is recommended that the appeal should be refused on insufficient information grounds.

Contamination

8.129 Paragraph 183 of the NPPF requires sites to ensure they are suitable for the proposed use, including consideration of contamination. Paragraph 184 places the responsibility onto the developer and/or landowner for ensuring the site is safe.

8.130 The appellants Phase I desk study and site walkover recommended that a Phase 2 investigation should be carried out to investigate contaminated surface water and soils caused by historical agricultural usage onsite and off-site deposits from potential polluted water and potential asbestos containing materials.

8.131 Had I been minded to recommend this scheme for approval, I believe that the Phase 2 investigation could be dealt with via a condition which the Environmental Health Officer has suggested in her consultee comment.

Waste

8.132 Following a request from KCC Highways, a swept path analysis has been undertaken to demonstrate that refuse vehicles can appropriately serve the development

8.133 Should the development be approved, it is recommended that conditions are attached to ensure each property is served by appropriate refuse provision.

Sustainability / Energy

8.134 The NPPF supports proposals for improvements to environmental sustainability, placing sustainability at the heart of the framework. Paragraph 152 requires the planning system to support the transition to a low carbon future in a changing climate, including the requirement to help shape places in ways that contribute to radical reductions in greenhouse gas emissions. Paragraph 154 goes on to require new development to reduce greenhouse gas emissions, such as through its location, orientation, and design. This is further iterated in Paragraph 157 which sets out that in determining planning applications, new development should take account of landform, layout, building orientation, massing, and landscaping to minimise energy consumption.

8.135 Policy DM19 of the Local Plan requires development proposals will include measures to address and adapt to climate change. The ways in which this shall be achieved are then further detailed in the policy; including measures such as use of materials and construction techniques which increase energy efficiency and thermal performance; promotion of waste reduction, re-use, recycling and composting; and design of buildings

which will be adaptable to change and reuse over the long term and which include features which enable energy efficient ways of living, for example.

8.136 Policy DM21 also requires that new residential development, all homes to be designed to achieve a minimum water efficiency of 110 litres per person per day. The supporting Sustainability Statement confirms that the Proposed Development will be designed to ensure estimated water consumption of no more than 110 litres/person/day. It is recommended that this be secured by condition should consent be granted.

8.137 In addition to the above, the Council has declared a Climate Change and Ecological Emergency and all applications for new housing are expected to demonstrate how they incorporate all reasonable sustainable design and construction measures within the scheme in order to minimise environmental impacts. This can include measures such as electric vehicle charging points (provision of one per dwelling); solar panels; passive energy measures; low NOx boilers as examples. Regarding the dwellings, it is the expectation that a reduction in CO2 emissions of 50% above the requirements of the Building Regulations be achieved.

8.138 The Council's Climate Change Officer has reviewed the details submitted by the appellant and concluded that it is thin on details and that the Council's Climate and Ecological Emergency Declaration has not been adequately acknowledged. She feels that a more robust consideration of renewable energy is needed.

8.139 My view is that her concerns, which relate to lighting levels, sustainable construction techniques and Electric Vehicle Charging Points can all be addressed through the imposition of conditions, if the Inspector is minded to grant planning permission, as the final layout and details would be dealt with at the Reserved Matters Stage,

Developer Contributions/ Legal Agreement

8.140 The use of planning obligations to address the impact of development and ensure they are acceptable in planning terms is well established in legislation and national, regional, and local planning policy. The NPPF and Swale Borough Council's Local Plan both recognise the importance of addressing the impacts of development and having effective mitigation in place to ensure that development can be accommodated sustainably.

8.141 The Council is keen to ensure that new development continues to be delivered, as detailed in its Local Plan and the emerging Local Plan Review. However, new development of this scale and size, which adds to the residential population, places significant additional pressure on the local environment, infrastructure, and public facilities. The Local Plan and Local Plan Review not only sets out plans for the delivery of development but also provides the basis on which development can be delivered sustainably, and in a way that respects environmental limits and resident's quality of life.

8.142 In line with this, the Bearing Fruits Local Plan sets out requirements to ensure that new development is delivered sustainably, and the Council's Developer Contributions SPD (2009) details requirements required from new development to mitigate impacts associated with development. The level of contribution is based on up-to-date costs provided by Kent County Council, Swale Borough Council, and the NHS.

8.143 The total contribution required to mitigate the impacts of this development is **£1,455,276.9**

8.144 The appellant has, in their Statement of Case and Statement of Common Ground, agreed to this figure and for the following Heads of Terms to be included in a Section

106 Agreement. However, the appellants, at the time of writing this report, have not provided the Council with a Unilateral Undertaking or signed a S106 Agreement that would deliver these contributions. Therefore, whilst their written acceptance of these contributions in their appeal statements is noted, and necessary, the absence of a legal agreement at the time of writing this report means that, potentially, the scheme might not mitigate its own impact. Therefore, the absence of a legal agreement committing to these contributions forms another reason for refusal and weighs against the benefits of the scheme.

- 35% on-site Affordable Housing Provision
- A contribution of £680,000.00 towards the new 2FE Primary School construction upon land at Rushenden, Queenborough or provision within the Sheppey Central Primary Education planning group
- A contribution of £454,000.00 towards Highsted & Borden Grammar School expansions
- A contribution of £105,182.00 towards the expansion of the new Special School on the Isle of Sheppey and additional provision through existing SRPs in mainstream schools in the vicinity
- A contribution of £1,642.00 towards additional equipment and classes at Sheerness Adult Education Centre
- A contribution of £6,550.00 towards additional Youth Service resources locally
- A contribution of £5,545.00 towards additional services and stock at Minster Library
- A contribution of towards domestic bins
- A contribution of £14,688.00 towards Specialist care accommodation in Swale District
- A contribution of £18,367.00 towards MRF and additional capacity at the HWRC & WTS in Sittingbourne A contribution of £1,219.90 towards Library Bookstock
- A contribution of £253.83 per residential unit to mitigate impacts on the Special Protection Areas.
- A contribution of £56,300 towards the diversion of Public Right of Way Resurfacing Footpath ZS8
- A contribution of £86,400 towards the refurbishment, reconfiguration and/or extension of Sheppey NHS Healthcare Centre, Sheerness Health Centre.
- Council's monitoring fees (5% of the sum of the financial contributions).

Other Matters

8.145 I note Kent Police's advice and, had I been minded to grant permission, their recommendations could have been secured by conditions

9.0 CONCLUSION

9.1 The harm, which significantly and demonstrably outweighs the benefits, cannot be justified by reference to housing supply. Whilst housing is a welcome and clear benefit, there is no policy support for its delivery at the expense of the local context. The proposal's substantial non-compliance with national and local planning policies is not outweighed by housing delivery considerations. Therefore, if an appeal against non determination had not been submitted to the Planning Inspectorate, then I would be minded to recommend that the proposal be refused for the reasons set out below..

10.0 RECOMMENDATION

- 1) The proposed development would fail to protect the intrinsic value, tranquillity and beauty of the countryside and rural context by virtue of its location outside the well-defined urban boundary of Minster-on-Sea. The proposal would also result in the

creeping coalescence of adjoining settlements and the permanent loss of open countryside. This harm both significantly and demonstrably outweighs any benefits from the proposal (including its contribution to the overall supply of housing in the Borough and to the provision of affordable dwellings). The development is therefore contrary to policies ST1, ST3, CP3, CP4, DM9, DM14, DM24 of the "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and would be contrary to paragraphs 8, 20, 130, 174 and 185, 170 of the National Planning Policy Framework (2021).

- 2) No legal agreement has been finalised to secure mitigation against community and ecological harm, and as such the proposal is unacceptable on the basis of the unmitigated impacts, contrary to the provisions of the development plan and the NPPF would be likely to result.
- 3) Insufficient information has been provided to ensure that the cumulative Air Quality Impacts of this and other neighbour developments are adequately assessed. The proposal is therefore contrary to paragraph 186 of the NPPF (2021)

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by: Offering pre-application advice. Where possible, suggesting solutions to secure a successful outcome. As appropriate, updating applicants/agents of any issues that may arise in the processing of their application. In this instance the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

Appendix A

Paragraph 5.3 of Huskinson Brown's Independent Review of the Appellants Landscape and Visual Impact Assessment

The LVIA methodology is considered to be more robust than that used for the previous LVIA but still includes errors that make it non-compliant with GLVIA3. There are also a number of inconsistencies between the approach and criteria set out in the methodology and those subsequently applied in the assessment reporting. In particular:

- Landscape value is addressed in the methodology text but includes an erroneous approach to the consideration of undesignated landscape and confusion regarding landscape character and landscape features that overall conflict with GLVIA3 and TGN 02/19.
- No criteria or thresholds are defined for landscape value although rankings (that appear to be more relevant to landscape condition/quality) are assigned within the LVIA.
- Criteria and thresholds are provided for landscape susceptibility (Table 1) but these are not followed or applied within the assessment. The assessment instead identifies 'forces for change' that relate to a number of generic development pressures for the identified landscape receptors. The susceptibility of the landscape to accommodate the specific development proposal is not considered.
- Table 2 defines the assessment criteria for the "sensitivity of landscape resource" but includes only baseline considerations that would suggest this criteria was meant to apply to landscape value. If the criteria are supposed to apply to landscape value, they do not reflect GLVIA3.
- Landscape magnitude criteria need to respond to duration and reversibility.
- No matrices are provided to indicate how judgements of landscape value and landscape susceptibility are combined to inform landscape sensitivity. This is also the case for visual sensitivity. Both matrices would allow for greater transparency in the assessment.
- The assessment of Viewpoint Value (Appendix D1) addresses landscape value criteria rather than visual value.
- The methodology for visual value needs to address the full range of criteria outlined in GLVIA3.
- Clarification should be provided regarding whether the operation/Day 1 assessment is based upon winter views.
- The criteria applied to the assessment of visual susceptibility does not reflect the criteria/rankings set out in the methodology.
- The time period for residual effects needs to be confirmed.

