

<b>2.6 REFERENCE NO - 21/506787/PSINF</b>		
<b>APPLICATION PROPOSAL</b>		
Construction of a 4 storey (Category B) houseblock for up to 247 prisoners, a new workshop, a staff administration building, extension to existing property store, extension to existing sports store, new 7-a-side sports pitch, new 3G MUGA pitch, extension to the existing car park (80 spaces) and realignment of existing containment fencing at HMP Elmley Category B/C Prison.		
<b>ADDRESS</b> HMP Elmley, Church Road, Eastchurch, ME12 4DZ		
<b>RECOMMENDATION</b> ( <u>Subject to Secretary of State Approval</u> ), to Grant planning permission ,subject to the following conditions and comments from KCC Highways (including requested conditions), and with authority to amend conditions as may reasonably be required.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The proposed development would expand the degree of prisoner accommodation with appropriate parking and associated facilities. The proposal would be considered to conserve the landscape and would meet local and national policy requirements.		
As set out within the report below, there are outstanding highway matters that will need to be addressed before the determination of the application.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Parish Council Objection relating to Highways.		
<b>WARD</b> Sheppey East	<b>PARISH/TOWN COUNCIL</b> Eastchurch	<b>APPLICANT</b> Ministry of Justice <b>AGENT</b> Cushman & Wakefield
<b>DECISION DUE DATE</b>		<b>PUBLICITY EXPIRY DATE</b> 06/06/2022

**Planning History**

SW/76/1197

DEVELOPMENT UNDER CIRCULAR 80/71 FOR CATEGORY C PRISON

Approved pre 1990 Decision Date: 22.02.1977

SW/81/0625

OUTLINE APPLICATION UNDER CIRCULAR 7/77 FOR NEW PRISON

Approved pre 1990 Decision Date: 28.10.1981

SW/86/1348

APPLICATION UNDER CIRCULAR 18/84 FOR STAFF SOCIAL CENTRE

Approved pre 1990 Decision Date: 13.01.1987

SW/87/1694

OUTLINE APPLICATION UNDER CIRCULAR 18/84 FOR CONSTRUCTION OF SECURE PRISON AND VILLAGE BY PASS

Approved pre 1990 Decision Date: 07.11.1988

SW/88/1825

APPLICATION UNDER CIRCULAR 18/84 FOR NEW SECURE PRISON AND VILLAGE BY PASS

Approved pre 1990 Decision Date: 28.02.1989

SW/90/1070  
ADDITIONAL FIELD ACCESS  
No Objection Decision Date:

SW/90/0692  
DEPARTMENT OF THE ENVIRONMENT CIRCULAR 18/84 SECURE PRISON/VILLAGE BY-PASS/VISITORS CENTRE AND CYCLE/BUS SHELTER  
No Objection Decision Date:

SW/94/0196  
APPLICATION UNDER CIRCULAR 18/84 FOR ADDITIONAL THREE-STOREY HOUSEBLOCK  
No Objection Decision Date:

SW/05/1365  
Portakabin, carpark and passenger lift  
No Objection Decision Date: 13.12.2005

SW/07/0630  
Installation of 1.8m satellite dish at HMP Swaleside, mounted on pole at ground level at administration block within establishment site.  
Not Proceeded With Application Returned Decision Date: 26.06.2007

SW/07/0773  
Installation of 1.8m satellite dish at HMP Elmley, mounted on pole at ground level at administration block within establishment site.  
Grant of Conditional PP Decision Date: 13.09.2007

SW/08/0321/DCA  
Discharge of conditions 3 and 6 of planning permission SW/08/0321 relating to car parking and site compound and disposal of foul and surface waters.  
Condition Discharged Decision Date: 02.03.2009

SW/08/0321  
New build custodial houseblock, gym extension, car park extension and temporary construction enabling works.  
Grant of Conditional PP Decision Date: 02.12.2008

SW/08/1282  
The proposed work consists of a modular building, this will provide additional office and toilet facilities for education staff within HMP Elmley. All DDA access will be catered for.  
Grant of Conditional PP Decision Date: 18.03.2009

SW/09/0237  
Erection of a single storey storage building at HMP Elmley.  
Grant of Conditional PP Decision Date: 14.05.2009

SW/09/0230  
Erection of a two storey extension to the existing prison kitchen.  
Grant of Conditional PP Decision Date: 14.05.2009

SW/09/0238  
Erection of single storey extension to the existing visits building  
Grant of Conditional PP Decision Date: 18.05.2009

SW/09/0409

Extension of the existing car park to create 39 parking spaces with associated hardstanding at HMP Elmley.

Grand of Unconditional (stat 3yrs) Decision Date: 07.07.2009

SW/09/0425/CCA

Compliance with conditions 2,3,5 + 7 of SW/09/0425.

Condition Discharged Decision Date: 29.09.2009

18/504594/LAWPRO

Lawful Development Certificate (proposed) for the Visits Building within a prison. To add a new DDA access door and ramp to the east elevation of the visits building. (Remove window and replace with door). Construct concrete ramp with handrails to new door and gate. Externally, add new external condensers within a small compound for HVAC system within building. Internally reconfigure First floor toilets to include DDA toilet. Provide new HVAC system.

Approved Decision Date: 23.10.2018

## **1. DESCRIPTION OF SITE**

- 1.1 The application site is comprised of HMP Elmley which is located to the south of Rowetts Way/Leysdown Road (B2231). The prison is access via Brabazon Road via Church Road, which provides access to the A2/M2 via the A249.
- 1.2 The site forms part of a wider Prison complex on the Island comprising HMP Swaleside and HMP Stanford Hill, which are situated due north of HMP Elmley. The cluster is located to the south of Eastchurch which is the nearest settlement approximately 1.65km from the Prison. To the south and east of the site the open countryside extends which includes an area of high landscape value at the Kent level.
- 1.3 HMP Elmley is the largest of the three prisons in Sheppey cluster. The site extends to around 10.3 hectares. The prison is enclosed by a 5.2m high perimeter wall which is heptagonal in shape, excluding the car park located to the south of the complex. The prison holds roughly 1000 prisoners. The accommodation is spread across five house blocks which include, single, double and treble cells.
- 1.4 The prison includes a number of ancillary uses, although the primary use remains C2A (Secure Residential Institution). The site includes outdoor amenity areas including a pitch, all within the walled confines. The prison buildings range in scale up to three storeys in height.
- 1.5 The application site is located within flood zone 1 (low flood risk), with the exception of the car park which is located in flood zone 2 and 3. The site has no heritage buildings within the complex, to the west of the site sits a Grade II listed building Four Hangars. The buildings are listed for their historical interest (relating to the early days of manned flight) rather than architectural interest.

## **2. Proposal**

- 2.1 The proposal seeks to construct a new four-storey block to house 247 prisoners (category B), a workshop, an administration building, an extension to the property store, provision of sports

store, a sports pitch, 3G MUNGA pitch, 80 parking spaces, and realignment of the containment fencing.

#### *Houseblocks*

- 2.2 The proposed houseblock would provide an additional 246 bed spaces for HMP Elmley. The house block would be four storeys high and sited to the north-eastern corner of the site, within the confinement walls. The houseblock would be located on the existing sports pitch and would have a cross shaped layout.
- 2.3 The proposed house block cross shape would sit at a tilt. The north-south axis of the cross would have an approximate length of 72.77mx13m. The east-west axis would have an approximate length 67.5x13m. The building would have simple gable pitched roofs with a small flat section to accommodate plant. The overall ridge height of the building would be approximately 17.5m.
- 2.4 The building would be finished in a similar finish to the existing fabric on site. The main composition would be yellow blockwork.

#### *Staff Administration Building*

- 2.5 The proposed Staff Administration building would be located to the south-eastern corner of the site, within the walled confines of the site. The building would provide a mixture of open plan offices, closed offices, welfare, and boardroom facilities.
- 2.6 The proposed administration building would be 2 storeys. The building would measure approximately 30mx11.9m. The building would have a simple rectangular form and pitched roof. The overall ridge height would be approximately 8m with an eave's height of 5.6m. The building would be clad in yellow brick with red banding.

#### *Workshop*

- 2.7 The proposed workshop would be located to the south-eastern corner of the site, within the wall confines. The building would be located north of the proposed administration building. The workshop would be used for educational purposes within the prison. The workshop building would be storeys with a high-pitched roof and square form.
- 2.8 The proposed workshop would measure approximately 39.15x34.2m. The overall ridge height would be approximately 12m with and eaves height of 7.16m. The building would be clad with yellow brick work with red banding and metal sheet roof. The building would also include solar panels.

#### *Extension to Property Stores*

- 2.9 The extension to provide additional property stores would be located to the eastern elevation of the Reception and Discharge building. The building is located to the south-western corner of the walled confined prison. The extension would be single storey with a flat roof and would be brick clad. The extension would be approximately 10.6mx6.69m with a ridge height of approximately 4m.

*Sports Storage*

- 2.10 The proposed sports storage building would be located to the eastern boundary of the site within the walled confines. The building would be single storey and sit adjacent to the proposed sports pitches. The building would be clad with grey cladding and steel roof cladding in brown. The building would be approximately 13.5mx4.6m and would have an approximate ridge height of 3m and an eaves height of 2.1m.

*Sports Pitches*

- 2.11 The proposal would see the loss of the existing playing field to partly accommodate the proposed houseblock. To compensate a new 7 a side pitch would be located to the south of the proposed house block and a new all weather 3G pitch beyond the new 7 a side pitch. The enclosure fencing to the existing greenhouse would be realigned to increase the planting area. These facilities would all be contained within the walled confines of the prison.

*Parking*

- 2.12 The proposal would include an additional 80 vehicular parking spaces. The spaces would be located outside of the walled confines of the prison to the north west corner of the existing parking area.

**3. PLANNING CONSTRAINTS**

- 3.1 Area of Archaeological Potential – AAP,
- 3.2 Outside of settlement boundary (within the open countryside),
- 3.3 6km Buffer Zone for the Special Protection Area (SPA),
- 3.4 Adjacent to Flood Zone 2 and 3 (car park within flood zone 2 and 3),
- 3.5 Grade II Listed Air Hanger (Four Hangars) to the Northwest of the application site,
- 3.6 (Costal Change Management Area and High Landscape Value to the south of the site).

**4. SUMMARY INFORMATION**

<b>Building</b>	<b>No. of Buildings Proposed</b>	<b>Storeys</b>
Accommodation Block	1	4
Staff administration building	1	2
Educational/workshop building	1	2
Sports Storage building	1	1
Extension to property store		1
Car Parking	80 parking spaces	
Various sports fields and exercise areas	N/A	N/A

## **5. POLICY AND CONSIDERATIONS**

### 5.1 Development Plan: Beating Fruits 2031: The Swale Borough Local Plan 2017:

- 5.2 ST 1 – delivering sustainable development in Swale,
- 5.3 ST 2- Development targets for jobs and homes 2014 – 2031,
- 5.4 ST 3 – The Swale settle strategy,
- 5.5 ST 4 – Meeting the Local Plan development targets,
- 5.6 ST 6 – The Isle of Sheppey area strategy,
- 5.7 CP 2 – Promoting sustainable transport,
- 5.8 CP 4 – Requiring good design,
- 5.9 CP 7 – Conserving and enhancing the natural environment,
- 5.10 CP 8 – Conserving and enhancing the historic environment,
- 5.11 DM 3 – The rural economy,
- 5.12 DM 6 – Managing transport demand and impact,
- 5.13 DM 7 – Vehicle parking,
- 5.14 DM 14 – General development criteria,
- 5.15 DM 19 – Sustainable design and construction,
- 5.16 DM 21 – Water, flooding, and drainage,
- 5.17 DM 24 Conserving and enhancing valued landscapes,
- 5.18 DM 28 – Biodiversity and geological conservation,
- 5.19 DM 29 – Woodlands, trees, and hedges,
- 5.20 DM 32 – Development involving listed buildings.
- 5.21 National Planning Policy Framework
- 5.22 Supplementary Planning Documents (SPD):
- 5.23 Parking Standards (2020).
- 5.24 Swale Landscape Character and Biodiversity Appraisal 2011.

## **6. LOCAL REPRESENTATION**

- 6.1 Eastchurch Parish Council have objected to the proposal, their comments are included below:
- 6.2 03/02/2022:

- 6.3 *“The Planning Committee of Eastchurch Parish Council objects to this application.*
- 6.4 *The principal concerns with the prison expansion is highway issues and road infrastructure, not the internal arrangements and increase of the occupancy of the prison site.*
- 6.5 *Church Road is unsuitable in its existing state for the existing levels of traffic and the increase from both this application (247) and the Stanford Hill application (120) will make the situation much worse in terms of road infrastructure and safety for both residents and users of the site.*
- 6.6 *The MoJ must take responsibility for problems on the ONLY access route to the cluster, as it produces the majority of the traffic on the road. Pre-existing conditions are due to the quantity of prison traffic, not just officer staff, but the administrative, medical, teaching and ancillary staff, the goods and services vehicles not to mention all of the traffic involved with provisioning the two sites with the goods and services in order to build the two expansions. The Parish Council suggests that the MoJ look at permanent and pertinent resolutions to resolve the Highways issues which are blighting the lives of local residents and are caused by the prison complex”.*
- 6.7 16/06/2022:
- 6.8 *“Having read the further reports and information supplied, the Planning Committee of Eastchurch Parish Council sees no reason to change the original strenuous objection.*
- 6.9 *The highways problems raised have not been dealt with. There have been no further meetings with the agents who had agreed to come back with proposals to mitigate the existing speed and safety issues.*
- 6.10 *There are additional concerns with the cumulative effect of the two prison extensions.*
- 6.11 *The Highway network mentioned in the reports is not the issue. The speed of existing traffic and the safety of the residents/visitors/prison staff who both walk and drive on Church Road has still not been addressed.*
- 6.12 *Reports and statistics cannot replace valid experiences of residents on a daily basis.*
- 6.13 *A section 106 agreement is an agreement between a developer and a local planning authority about measures that the developer must take to reduce their impact on the community.*
- 6.14 *Eastchurch Parish Council ask for S106 or CIL, in order to fund active physical road calming in order to protect both residents and the prison community. There is already a high direct impact on the local population.*
- 6.15 *The cumulative effect of the two current expansions will see this at breaking point. Swale Borough Council and MoJ have a Duty of Care to ensure that an acceptable resolution is found”.*

## 7. CONSULTATIONS

### External

	COMMENTS RECEIVED	OFFICER RESPONSE
National Highways	<p>Referring to the consultation on a planning application dated 19 January 2022 referenced above, in the vicinity of the A249 and M2 at Swale Borough that form part of the Strategic Road Network, notice is hereby given that National Highways' formal recommendation is that we:</p> <p><b>b) recommend that conditions should be attached to any planning permission that may be granted (see Annex A – National Highways recommended Planning Conditions &amp; reasons);</b></p> <p>Highways Act 1980 Section 175B is/is not relevant to this application.<sup>1</sup></p> <p>This represents National Highways formal recommendation (<i>prepared by the Area 4 Spatial Planning Team</i>) and is made available to the Department for Transport as per the terms of our Licence.</p> <p>Should the Local Planning Authority not propose to determine the application in accordance with this recommendation they are required to consult the Secretary of State for Transport, as set out in the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018, via <a href="mailto:transportplanning@dft.gov.uk">transportplanning@dft.gov.uk</a> and may not determine the application until the consultation process is complete.</p> <p>The Local Planning authority must also copy any consultation under the 2018 Direction to <a href="mailto:planningse@highwaysengland.co.uk">planningse@highwaysengland.co.uk</a>.</p>	
KCC Flood and Water Management	<p>Thank you for your consultation on the above referenced planning application.</p> <p>Kent County Council as Lead Local Flood Authority have reviewed the Flood Risk Assessment and Drainage Statement documents and have the following comments to provide:</p> <p>It is understood from the Drainage Statement that the proposed development's drainage would connect into the existing wider scheme serving the prison complex. Surface water discharge from the new impermeable areas would be restricted to a maximum rate of 2l/s for all storm events (up to 100 year plus 40% climate change allowance). This approach is welcomed and in line with our requirements set out within KCC's Drainage and Planning Policy Statement (December 2019).</p> <p>Should the Local Planning Authority grant planning permission to the proposed development, we would request the following condition to be attached:</p>	



	<p>Condition:</p> <p>No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed. To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.</p>	
KCC Highways	<p>1<sup>st</sup> comments:</p> <p>An application is made to expand the existing prison to cater for an additional 240 prisoners and includes expansion of the existing car parking facilities by 80 spaces.</p> <p>The existing staff to prisoner ratio would indicate that the staff level is around 42% staff to prisoners. This would equate to an additional 101 staff operating on four shifts which are as follows;</p> <p>Early Shift - 07:30-12:30  Late Shift - 12:30-21:00  Main Shift - 07:45-17:30  A Shift - 07:45-21:00</p> <p>Parking.</p> <p>An additional 80 spaces are to be provided, 76 visitor and staff and 4 disabled spaces. The number of disabled spaces is compliant with Swale standards.</p> <p>There are currently 274 spaces for 480 staff, a provision of 1.75 spaces per staff member. The new proposal is for 80 spaces for 101 staff, a provision of 1.26 spaces per staff member. This is agreed as appropriate and any under provision is unlikely to impact upon the public highway.</p> <ol style="list-style-type: none"> <li>1. No details of space size and dimensions are provided, and these should be presented in accordance with the Swale standards.</li> <li>2. No provision appears to be made for EV charging facilities and as such would not comply with Swale standards.</li> <li>3. Cycle parking information is limited and a condition would be recommended requiring the new buildings to contain cycle storage facilities.</li> </ol>	

	<p><b>Highway Impact</b></p> <p>The Transport Assessment includes an anticipated trip generation expectation of 162 additional two-way movements for staff and 16 two-way trips for visitors.</p> <p>The numbers include an assumption that 20% staff will be on leave but does not account for any potential mode share such as car sharing. The analysis of trip generation is considered to be a reasonable and the only movements likely to impact the wider network peak would be in the 17:00-18:00 PM. No analysis has been provided on the junction performance of the Church Road arm of the Rowetts Way roundabout however there have been no recorded incidents in the 5 years data which we have independently checked. Given the additional estimated number (61) of movements this is unlikely to cause safety concern in accordance with the NPPF severity test.</p> <p>Construction.</p> <p>No information has yet been presented in respect of the management and operation of construction traffic. Construction traffic should be timed to avoid conflict with the peak staff shift arrivals and departures and a Construction Environment Management Plan will be required by condition.</p> <p>Sustainability and Access</p> <p>The Transport Assessment includes plans to show the facilities and amenities within walking and cycling access, concluding the sites locality provides suitable access for walking to facilities and opportunity for staff living in the area identified to access by use of cycle. There is however limited residential catchment for cycling access and the walking route is beyond a 2KM and approximately a 30 minute walk to the limited facilities at Eastchurch.</p> <p>The Transport Assessment further goes on to state that there is one morning peak bus service and two afternoon peak services. Our review indicates that the bus number 367 arrives at 11:46 and departs at 16:20 which is in neither considered peak or aligns to the presented staff shift pattern. Our conclusion is that the service is very limiting and could only be used by local residents but not staff or visitors to the application.</p> <p>A Travel Plan has been submitted but given the lack of availability of public transport, inaccessibility by walking and cycling and lack of any meaningful actions is unlikely to have any impact. There are some positive measures regarding monitoring and the provision of information but no measures or recommended investment that would be likely to encourage modal shift.</p> <p><b>4.</b> The applicant is requested to set up a strategy within the Travel Plan to work with the other prisons in the area with a view to reducing the need to arrive to the complex by private car and reduce the impact on the highway. This should investigate the feasibility of providing a funded minibus service to collect staff from areas of demand on the island, for instance Sheerness Rail Station.</p>	
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	<p><b>Summary</b> The Highway Authority requires further information to be submitted prior to our final opinion being provided.</p> <p>The application is in an unsustainable location in regards to transportation and provides insufficient evidence that it complies with Local Plan policies DM6 and CP2. No EV charging facilities appear to be included which would be contrary to Swale Parking Standards.</p> <p>The Highway Authority are unable to support approval of the application at this time due to the non-compliance of Local Plan policy and parking standards. The applicant is encouraged to identify a meaningful strategy within a Travel Plan that could make realistic improvements to sustainable accessibility.</p> <p><b>Informative: It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.</b></p> <p>2<sup>nd</sup> comment: Thank you for your consultation in relation to the above planning application. I have the following comments to make with respect to highway matters :- The applicant has submitted a Travel Plan and updated the Transport Statement to include details of the parking dimensions as requested.</p> <p>The parking dimensions provided in paragraph 3.6.1 accord with Swale Borough Council Parking standards and as such are agreed. It is requested that the parking layout as demonstrated on plan 705674-2201-MDG-XXX-ZZ-DR-A-0022-D2-A1800 is available prior to occupation of the extended areas of the prison by condition.</p> <p>The volume of additional traffic has been reviewed and includes an additional 38 staff movements in the morning and afternoon shifts at 07:30 and 15:30. At 07:30 there would be expected to be an additional 14 outbound movements leaving from the night shift. The mode share analysis has been adjusted to take account of the lack of public transport conditions at night, however it still accounts for 8% (4) staff arriving by foot and this is considered to be highly unlikely. The resultant impact would therefore be expected to be 42 arrivals by car at 07:30. Visitor analysis has also been provided on the basis of 3% of prisoners receiving a visit in line with analysis from August, presumably in 2021 and during Covid restrictions. The analysis presented should be considered as underestimating the likely impact once restrictions are lifted.</p> <p>Notwithstanding the apparent underestimation, due to the timings of the visitor hours, it is unlikely that the numbers expected would account for a severe impact on the highway network.</p> <p>A cumulative assessment for the increases of prisoners at both HMP Elmley and HMP Standford Hill has now been provided. This demonstrates that the peak hour for the main access junction of Brabazon Road and at the Rowetts Way roundabout would be</p>	
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	<p>between 07:00 and 08:00 AM, having an additional 58 two way movements.</p> <p>Taking account of the additional movements that may occur from those staff not walking to work, this would be uplifted to 62 two way movements. As presented this would be just over 1 additional movements per minute. Our presumption however is that staff would be more likely to arrive through a 30 minute window. Should this be the case then an additional vehicle would arrive at the junction approximately every 30 seconds. The flows of the conflicting traffic from Rowetts Way have not been presented however at 07:00-07:30AM it unlikely that high west bound flows at that time of day would cause any safety concern for the roundabout junction. The data for safety incidents did not identify any at this location and as such would support the above assumption.</p> <p>Notwithstanding the above the evidence presented appears to have a number of inconsistencies that brings in to doubt its overall validity. These are as follows;</p> <p><b>Trip generation and mode share.</b>          Paragraph 4.1 in both Transport Statements state that “<i>a summary of anticipated trip generation and modal split information (is) based on staff movement provided by the client in September 2021</i>”.          Paragraph 4.3 however states that here is currently no modal data available and as such Census data has been used.</p> <p>1.) Which of the two paragraphs is correct and can we be provided with the evidence provided by the client in September 2021?          Using the same “September 2021 evidence provided by the client”, the initially submitted TS states that there are currently <i>around</i> 480 staff and that the 42% ratio of current staff to prisoners would result in an increase of 101 staff. The recent TS states that there are currently <i>around</i> 630 staff and yet despite a higher existing staff to prisoner ratio (55%) the expansion requires an increase of a lesser number (78) of staff.</p> <p>2.) Evidence should be presented on exactly how many staff and prisoners there are in the prison along with a justification for the proposed staff levels.</p> <p><b>Shift times.</b>          3.) Paragraph 4.2 provides a breakdown of the shift times with the main shift stated as 07:45 to 17:30. Table 4.1 below it states that the day shift is 07:30 to 17:30, which is the correct time? There is also no allowance for the morning shift.</p> <p><b>Travel Plan</b>          The travel plan has been updated and includes additional measures to encourage car sharing and looking into the feasibility of providing a mini-bus for trips on the island. There remains no hard commitment or penalty of failure to meet the proposed mode shift across the term of the Travel Plan.</p> <p>It is recommended that evidence of existing mode share be presented to the Planning Authority by condition throughout the life</p>	
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	<p>of the TP, along with a staff survey demonstrating who would be willing to make use of a free mini-bus on the island for the purposes of getting to work. If the proposed mode share targets are not being met and the Planning Authority determines that there is sufficient justification, based on the staff survey, then a mini-bus to serve access by staff or visitors should be provided by the applicant for so long a time as the prison remains open.</p> <p><b>Summary</b> There are inconsistencies in the evidence being presented that brings in to question it's validity. The above raised points should be clarified and evidence re-presented to take account of any changes to data.</p> <p><b>Informative: It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.</b></p>	
Environment Agency	<p>Thank you for your consultation.</p> <p>We have <b>no objections</b>.</p> <p>Should you wish to discuss these matters further, please contact me via the email below.</p>	
KCC Ecology	<p>We have reviewed the ecological information submitted by the applicant and advise that sufficient ecological information has been provided. Whilst we are satisfied that protected species (other than breeding birds – example informative wording is provided at the end of this advice note) are unlikely to be affected, and that the development is likely achieving biodiversity net-gain, we have some comments which we advise are incorporated.</p> <p>It is preferable to seed with wildflower seed from a reputable source (with seed from local provenance) rather than using 'wildflower turf'. Both methods have been proposed within the submitted plans. Additionally, the wildflower grassland will only establish and thrive if managed in a very specific but minimal way, i.e., mown at the end of the flowering season with the cuttings removed. The cuttings should be placed in shaded, grassed area for the benefit of breeding reptiles.</p> <p>We are disappointed that ornamental shrubs are due to be planted. Although 'wildlife friendly', native species are much more beneficial for biodiversity. This is especially important given the ecologically sensitive surroundings of the site. As such, whilst not a requirement, we would strongly recommend that the landscaping scheme is revised to feature native species only.</p> <p><b>Breeding Bird Informative</b> <i>The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken</i></p>	

	<i>by a competent ecologist and has shown that nesting birds are not present.</i>	
Natural England	<p><b>NO OBJECTION</b> Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites. Natural England’s generic advice on other natural environment issues is set out at Annex A.</p> <p><b>European sites</b> Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.</p> <p><b>Sites of Special Scientific Interest</b> Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.</p> <p><b>Sites of Special Scientific Interest Impact Risk Zones</b> The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on “Development in or likely to affect a Site of Special Scientific Interest” (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the <a href="https://data.gov.uk">data.gov.uk</a> website</p> <p>Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A. We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.</p> <p>For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to <a href="mailto:consultations@naturalengland.org.uk">consultations@naturalengland.org.uk</a></p>	
Southern Water	<p>Thank you for your letter dated 19/01/2022.</p> <p>Please see the attached extract from Southern Water records showing the approximate position of our existing sewer and water main assets crossing/in the vicinity of the development site. The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised. Please note:</p>	

	<ul style="list-style-type: none"><li>- The 675 mm public foul sewer requires a clearance of 3.5 metres on either side of the gravity sewers to protect it from construction works and to allow for future access for maintenance.</li><li>- No development or tree planting should be carried out within 3.5 metres of the external edge of the public gravity sewer without consent from Southern Water.</li><li>- No soakaway, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public sewer.</li><li>- All existing infrastructure should be protected during the course of construction works.</li></ul> <p>Please refer to: <a href="https://southernwater.co.uk/media/3011/stand-off-distances.pdf">southernwater.co.uk/media/3011/stand-off-distances.pdf</a>.</p> <p>Furthermore, it is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.</p> <p>Please find attached an extract of Southern Water records showing the approximate position of a public decommissioned foul sewer crossing the site. The exact position and condition of the sewer/water main must be determined by the applicant before the layout of the proposed development is finalised.</p> <p>Our investigations indicate that Southern Water can facilitate foul sewerage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.</p> <p>To make an application visit Southern Water's Get Connected service: <a href="https://developerservices.southernwater.co.uk">developerservices.southernwater.co.uk</a> and please read our New Connections Charging Arrangements documents which are available on our website via the following link: <a href="https://southernwater.co.uk/developing-building/connection-charging-arrangements">southernwater.co.uk/developing-building/connection-charging-arrangements</a></p> <p>The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS).</p> <p>Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be considered if such systems comply with the latest Sewers for Adoption (Appendix C) and CIRIA guidance available here:</p> <p><a href="https://water.org.uk/sewerage-sector-guidance-approved-documents/ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx">water.org.uk/sewerage-sector-guidance-approved-documents/ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx</a></p> <p>Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that</p>	
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	<p>arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.</p> <p>Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:</p> <ul style="list-style-type: none"> <li>- Specify the responsibilities of each party for the implementation of the SuDS scheme.</li> <li>- Specify a timetable for implementation.</li> <li>- Provide a management and maintenance plan for the lifetime of the development.</li> </ul> <p>This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The Council’s technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.</p> <p>We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.</p> <p>This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.</p> <p>Our investigations indicate that Southern Water can facilitate water supply to service the proposed development. Southern Water requires a formal application for a connection to the water supply to be made by the applicant or developer.</p> <p>To make an application visit Southern Water's Get Connected service: <a href="http://developerservices.southernwater.co.uk">developerservices.southernwater.co.uk</a> and please read our New Connections Charging Arrangements documents which are available on our website via the following link: <a href="http://southernwater.co.uk/developing-building/connection-charging-arrangements">southernwater.co.uk/developing-building/connection-charging-arrangements</a></p>	
<p>Kent Police</p>	<p>1<sup>st</sup> Response. 3<sup>rd</sup> of February:</p> <p>We have reviewed this application in regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF).</p> <p>Applicants/agents should consult us as Designing out Crime Officers (DOCO’s) to address CPTED and incorporate Secured By Design (SBD) as appropriate. We use details of the site, relevant crime levels/type and intelligence information to help design out the</p>	



	<p>opportunity for Crime, Fear of Crime, Anti-Social Behaviour (ASB), Nuisance and Conflict.</p> <p>There is a carbon cost for crime and new developments give an opportunity to address it. Using CPTED along with attaining an SBD award using SBD guidance, policies and academic research would be evidence of the applicants' efforts to design out the opportunity for crime.</p> <p>We note from the documents provided that the applicant is to use BREEAM for this site. Please note we no longer provide BREEAM advice but we welcome a meeting with the applicant to discuss this proposal to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety and to meet our Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998.</p> <p>This information is provided by Kent Police DOCO's and refers to situational crime prevention. This advice focuses on CPTED and Community Safety with regard to this specific planning application.</p> <p>2<sup>nd</sup> Response. 14<sup>th</sup> of March 2022.</p> <p>Thank you for the opportunity to comment further on this application. Since our comments submitted on 3rd February 2022, we have had a consultation with the applicant.</p> <p>We can confirm that our pre-existing concerns have been successfully addressed through this meeting held on the 2nd March 2022.</p> <p>Please contact us on the email/ phone number provided above if you wish to discuss this proposal further. However, please note whilst we can provide crime prevention advice we are currently unable to assist with BREEAM applications.</p>	
Lower Medway Internal Drainage Board	<p>The site is within the Internal Drainage District (IDD) of the Lower Medway Internal Drainage Board (IDB) and therefore the Board's Byelaws apply. A copy of the Board's Byelaws can be accessed on the Board's website (<a href="http://www.medwayidb.co.uk/consents/byelaws/">http://www.medwayidb.co.uk/consents/byelaws/</a>).</p> <p>This letter contains reference to a Board Adopted Watercourses. Please note that the adoption of a watercourse is an acknowledgement by the Board that the watercourse is of arterial importance to the IDD and as such will normally receive maintenance from the IDB.</p> <p>In order to avoid conflict between the planning process and the Board's regulatory regime and consenting process please be aware of the following:</p> <ul style="list-style-type: none"> <li>• I note that the applicant intends to connect and discharge the new surface water drainage network to the existing prison surface water drainage system. This eventually discharges into an existing watercourse (situated approximately 625m southwest of the site)</li> </ul>	

	<p>with no other means of draining the site readily available or discussed. Any surface water discharge to a watercourse within the Board's district 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 <a href="http://www.medwayidb.co.uk/development/">http://www.medwayidb.co.uk/development/</a>).</p> <ul style="list-style-type: none"> <li>• I note the presence of a watercourse which has not been adopted by the Board (a riparian watercourse) within the site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter the riparian watercourse, consent will be required under the Land Drainage Act 1991 (and byelaw 4).</li> </ul> <p>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.</p>	
KCC Archaeology	<p>Thank you for consulting on the above application for development in HMP Elmley. The submission includes a heritage assessment by Headland Archaeology. While I think that the background archaeological potential in this area is higher than stated due to current knowledge being based on very limited investigation in the area, I agree that previous prison development may have had an impact. The degree of impact has not been fully established and I note that the new development features are to be constructed in relatively open areas that may have been relatively less affected.</p> <p>I agree with the conclusion that there is no evidence of heritage assets within the areas proposed for development that constrain the proposals. It remains possible that unidentified archaeological remains may be affected by the development works and I therefore recommend in any forthcoming consent provision is made for a programme of archaeological work. This can be secured through the following condition and should in the first instance comprise targeted trial trenching.</p> <p><b><i>AR1 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.</i></b></p> <p><b><i>Reason: To ensure that features of archaeological interest are properly examined and recorded.</i></b></p>	

<p>Kent Minerals and Waste</p>	<p>Thank you for consulting the County Council’s Minerals and Waste Planning Policy Team on the above planning application.</p> <p>The County Council has no minerals or waste safeguarding objections or comments to make regarding this proposal.</p>													
<p>Sports England</p>	<p>1<sup>st</sup> Response.</p> <p><b>Sport England – Statutory Role and Policy</b></p> <p>It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.</p> <p>Sport England has considered the application in light of the National Planning Policy Framework (particularly Para 99) and Sport England’s Playing Fields Policy, which is presented within its ‘Playing Fields Policy and Guidance Document’:  <a href="https://www.sportengland.org/how-we-canhelp/facilities-and-planning/planning-for-sport#playing_fields_policy">https://www.sportengland.org/how-we-canhelp/facilities-and-planning/planning-for-sport#playing_fields_policy</a></p> <p>Sport England’s policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one or more of the five exceptions stated in its policy apply.</p> <table border="1" data-bbox="336 1039 1206 1561"> <thead> <tr> <th colspan="2" data-bbox="336 1039 1206 1066">Sport England Policy Exceptions</th> </tr> </thead> <tbody> <tr> <td data-bbox="336 1066 395 1160">E1</td> <td data-bbox="395 1066 1206 1160">A robust and up to date assessment has demonstrated, to the satisfaction of Sport England, that there is an excess of playing field provision in the catchment, which will remain the case should the development be permitted, and the site has no special significance to the interests of sport.</td> </tr> <tr> <td data-bbox="336 1160 395 1232">E2</td> <td data-bbox="395 1160 1206 1232">The proposed development is for ancillary facilities supporting the principal use of the site as a playing field, and does not affect the quantity or quality of playing pitches or otherwise adversely affect their use.</td> </tr> <tr> <td data-bbox="336 1232 395 1561">E3</td> <td data-bbox="395 1232 1206 1561"> <p>The proposed development affects only land incapable of forming part of a playing pitch and does not:</p> <ul style="list-style-type: none"> <li>▪ reduce the size of any playing pitch;</li> <li>▪ result in the inability to use any playing pitch (including the maintenance of adequate safety margins and run-off areas);</li> <li>▪ reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality;</li> <li>▪ result in the loss of other sporting provision or ancillary facilities on the site; or</li> </ul> </td> </tr> </tbody> </table> <table border="1" data-bbox="336 1615 1206 1984"> <tbody> <tr> <td data-bbox="336 1615 395 1899">E4</td> <td data-bbox="395 1615 1206 1899"> <p>▪ prejudice the use of any remaining areas of playing field on the site.</p> <p>The area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field:</p> <ul style="list-style-type: none"> <li>▪ of equivalent or better quality, and</li> <li>▪ of equivalent or greater quantity, and</li> <li>▪ in a suitable location, and</li> <li>▪ subject to equivalent or better accessibility and management arrangements.</li> </ul> </td> </tr> <tr> <td data-bbox="336 1899 395 1984">E5</td> <td data-bbox="395 1899 1206 1984">The proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.</td> </tr> </tbody> </table>	Sport England Policy Exceptions		E1	A robust and up to date assessment has demonstrated, to the satisfaction of Sport England, that there is an excess of playing field provision in the catchment, which will remain the case should the development be permitted, and the site has no special significance to the interests of sport.	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	<p><b>The Proposal and Impact on Playing Field</b></p> <p>The proposal is for the construction of additional buildings and ancillary works including the development of a new houseblock for up to 247 prisoners on that part of the site currently occupied by a full size adult sand based Artificial Grass Pitch (AGP). It is proposed to replace the lost pitch with one mini soccer 7v7 'All Weather' pitch (proposed surface currently unknown) and a small 3G MUGA pitch of approximately 25m x 16m playing area.</p> <p>Sport England has discussed the proposal with the agent since the planning application was submitted.</p> <p><b>Assessment against Sport England Policy/NPPF</b></p> <p>The proposal is for the loss of an existing sports pitch and playing field and its replacement by alternative facilities. It therefore needs to be assessed against exception 4 of our policy that requires that playing fields to be lost are replaced with facilities of at least equivalent quality and quantity. The current AGP has dimensions of approximately 100m x 66m and area of 6,634sq m (0.66ha). Its quality is unknown but as a full sized pitch it is suitable for play by the adult population of the prison. The proposed replacement facilities would more usually be suited to junior play. The 7v7 AWP is to FA recommended dimensions for an under 9/10 age group 7v7 pitch. The proposed 3G MUGA does not meet the minimum size for any type of FA pitch. The total area covered by 'pitches' would be approximately 3,415 sq. m (0.34ha) representing a substantial reduction in pitch/ playing field area and split over two small facilities.</p> <p>It would therefore not meet exception 4. The proposal would also not accord with any other of the policy exceptions.</p> <p>Sport England has considered the planning statement submitted with the application however, in respect to the impact on the playing field the assessment is incomplete.</p> <p>It is recognised that some attempt has been made to mitigate the loss of the existing pitch however Sport England would expect to see a solution that moves towards full compensation for the proposed loss. We would therefore be happy to consider any further proposals to that end and / or justification for the loss and the currently proposed mix of replacement facilities. In particular, Sport England has asked the agent to address the following matters:</p> <ul style="list-style-type: none"> <li>• Why has the houseblock been sited on the existing AGP, have any alternative locations been considered?</li> <li>• Could the block be located further to the north and the existing greenhouse and farm buildings and increased planted area be relocated elsewhere?</li> <li>• The 'X form' footprint of the proposed building is very wasteful of land and does not reflect the form or orientation of the existing blocks, could it be redesigned to fit the available area(s) of land outside of the AGP?</li> <li>• Have the pitch requirements of the inmates, including the additional population, been objectively assessed? Sport England has identified that at both neighbouring prisons full</li> </ul>	
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	<p>sized adult pitches are provided. Is there a reason why a full size pitch isn't required at Elmley?</p> <ul style="list-style-type: none"> <li>• What is the rationale behind the mix of facilities proposed, how is the very small MUGA expected to be used?</li> <li>• What is the proposed surface of the 7v7 AWP?</li> </ul> <p><b>Conclusion</b></p> <p>In light of the above, Sport England <b>objects</b> to the application because it is not considered to accord with any of the exceptions to Sport England's Playing Fields Policy or with Paragraph 99 of the NPPF.</p> <p>If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s). We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.</p> <p>If you would like any further information or advice please contact me.</p> <p>2<sup>nd</sup> Response.</p> <p>Thank you for reconsulting Sport England on this application following the receipt of additional information on behalf of the applicant.</p> <p>Sport England previously objected to the proposal on the basis that it does not meet any of the exceptions to our playing field policy or paragraph 99 of the NPPF. Specifically, we objected to the significant loss without sporting justification of playing pitch area suitable for adult recreation. We said that we would expect the applicant to propose a solution that moves towards fully propose any further compensatory provision and therefore, we maintain our objection to the application.</p> <p>In our previous response we did, by way of assisting the applicant to consider how it might accommodate better mitigation, raise a number of questions. Although these have been answered in part, they do not provide a sports justification required for us to withdraw our objection.</p> <p>With regard to the response received, I would make the following comments.</p> <p>1. The loss of sports facilities and specifically playing pitches is not justified by the need to provide additional accommodation for an increasing prison population. Sports facilities are central to creating a healthy and productive living environment for the prison community. Sport England's new Strategy 'Uniting The Movement' is a 10-year vision to transform lives and communities through sport and physical activity. We believe and will advocate that sport and physical activity has a big role to play in improving the physical and mental health of the nation, supporting the economy, reconnecting communities and rebuilding a stronger society for all. More than anything, the Strategy seeks to tackle the inequalities we've long seen in sport and physical activity. Providing opportunities to people and communities that have</p>	
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	<p>traditionally been left behind, and helping to remove the barriers to activity, has never been more important. The new strategy can be downloaded from our website <a href="#">here</a>;</p> <p>An internet search reveals a number of articles around the benefits of physical activity within the prison system, 'Well established as a core element of most prison regimes, sport and physical activity are widely recognised as a valuable way in which to engage with incarcerated populations in promoting health, education, pro-social behaviour and ultimately desistance from crime (Meek <i>et al.</i>, 2012; Meek, 2014). In addition an independent review 'A sporting Chance' 2018 with a government response, both published on the Ministry of Justice website supports the benefit of sport and physical activity. The loss of existing playing field area appears counter to the government response. The additional 247 inmates being planned for will place additional demands on existing sports facilities available on the site and therefore an almost 50% reduction in outdoor sports area appears unwarranted.</p> <p>2. Sport England does not argue that the greenhouse and associated buildings are not important for recreation and mental health but no answer has been provided as to why they could not be redistributed elsewhere within the site. Why is the adult playing pitch not afforded the same importance to physical and mental health?</p> <p>3. Noted but response does alter Sport England's consideration that in light of the building being proposed on the existing adult playing pitch it is overly wasteful of that space.</p> <p>4. Sport England asked why HMS Elmley did not require a full size adult pitch where that provision is considered necessary and is provided at other prisons in the locality and elsewhere. The statement provided is not an objective assessment. The replacement pitches provide little over 50% of the existing pitch area. The availability of the pitch for wider community use is irrelevant to this proposal. The presence of existing / proposed indoor sports facilities does not justify the loss of the adult playing pitch. On what objective basis is it considered that the provision of a small sided football pitch and small MUGA is sufficient to meet the physical requirements of the enlarged prison population?</p> <p>5. But what is the rationale for the mix of outdoor facilities proposed?</p> <p>6. Noted. Notwithstanding our objection it is recommended that different surfaces on the pitch and MUGA would provide most flexibility in the range of sports and activities able to be accommodated. For example, a 3G surface for the pitch and '2 Gen' surface for the MUGA Sport England would be very happy to comment on any amendments to the proposal that take consideration of our objection.</p> <p>3<sup>rd</sup> comments:</p> <p>Thank you for reconsulting Sport England on this application following the receipt of additional information on behalf of the applicant.</p> <p>Having considered the additional information provided, Sport England does not wish to withdraw its objection as the proposal does not meet any of the exceptions of our playing pitch policy and no</p>	
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	<p>move towards minimising the loss in of the existing playing pitch has been made. Furthermore, although some explanation of the use of the existing pitch has been given, no explanation is provided as to why the inmates of HMS Elmley specifically do not require comparable quality and quantity of outdoor playing pitches as inmates of other prisons. Sport England is aware that the adjoining prison, HMP Swaleside has a full sized pitch as well as other outdoor courts and other prisons that are part of the government's expansion programme also have such facilities. That the existing pitch at Elmley is in poor condition is not a justification for its loss.</p> <p>To clarify one point made in my correspondence of 19<sup>th</sup> May 2022 and subsequently in our meeting with the agent, I suggested that if planning permission is granted against our objection, that the surface of the MUGA is different to the small side 3G pitch as that would maximise the flexibility of use of the two facilities. If both the MUGA and the 3G pitch have the same 3G surface then the flexibility of their use and the range of sports that can be played on them will be very limited.</p>	
Scottish Gas Network	<p>Our gas pipe locations are now available online at <a href="http://www.linesearchbeforeudig.co.uk">www.linesearchbeforeudig.co.uk</a>. Not only can you access information about the location of our gas pipes in your proposed work area, but you can also search for information on other utility companies' assets at the same time.</p> <p>All requests for maps and plant location information must now be submitted through this online service.</p> <p>Please note your enquiry has not been processed on this occasion.</p> <p>Please visit <a href="http://www.sgn.co.uk/Safety/Dig-safely/">www.sgn.co.uk/Safety/Dig-safely/</a> for safety information and links to <a href="http://www.linesearchbeforeudig.co.uk">www.linesearchbeforeudig.co.uk</a>, where you can register for our online service and view our gas pipe locations.</p> <p>Our online service is not currently available in Northern Ireland. If you have contacted us about plant location or maps for Northern Ireland, we will respond to your enquiry within 15 working days.</p> <p>If you have any questions about our new plant location online service, please contact us on 0800 912 1722 or if you have any system queries contact LineSearch on 0845437 7365</p>	
UK Power Networks	No response.	

**Internal**

	<b>COMMENTS RECEIVED</b>	<b>OFFICER RESPONSE</b>
Environmental Health	<p>COMMENTS: The Geoenvironmental Desk Study recommends an intrusive investigation to establish the nature of the made ground at the site, as the land has been raised by approximately 1 metre. I concur with this recommendation. The site benefits from its own water supply by means of a deep</p>	

	<p>borehole, although overlain by clay reference should be made to this in the report.</p> <p>The scale of the development will require submission of the Construction Environmental Management Plan prior to commencement of the development.</p> <p>The RSK Acoustics Report submitted is acceptable in principle. I would ask however that their BS4142 calculation for noise sensitive receptors be provided as an addendum to clearly illustrate conclusions reached.</p> <p>The Air Quality Statement and simple assessment submitted is acceptable. Operational air quality impacts are deemed low, where the main scope for this application would be dust management through the construction phase. The submitted statement provides recommends a Dust Management Plan and targeted mitigation measures relative to the level of impact for the construction phase. These can be incorporated in the Construction Method Statement which is requested below. (Suggested conditions found on online response).</p>	
Parks and Open Spaces	No response.	

## 8. APPRAISAL

8.1 The main planning considerations are as follows:

- Principle
- Design/Visual Impact
- Landscaping and Wider Impacts
- Residential Amenity
- Highways/Transport
- Biodiversity
- Flood Risk/Drainage
- Environmental Matters (including Noise, Air quality and Contamination)
- Sustainability / Energy
- Open Space

### Principle of Development

8.2 Policy ST 1 of the Local Plan seeks to deliver sustainable development that accords with the settlement strategy. Policy ST 3 of the Local Plan sets out a spatial strategy which identifies a hierarchy of 5 settlements. The application site is not allocated under policy ST 4 and is located



outside of the Built-up area boundary of Eastchurch, the site is therefore considered to be located in the open countryside under policy ST 3(5).

- 8.3 Policy ST 3(5) seeks to restrict development in the open countryside unless supported by national planning policy. Further, any development in such locations must demonstrate it would contribute towards protecting, and where appropriate enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and vitality of rural communities.
- 8.4 Paragraph 174 of the National Planning Policy Framework seeks to ensure that planning decisions to contribute to enhance the natural environment in several ways, including recognising the intrinsic character and beauty of the countryside.
- 8.5 Paragraph 96 of the National Planning Policy Framework:

*“To ensure faster delivery of other public service infrastructure such as further education colleges, hospitals and criminal justice accommodation, local planning authorities should also work proactively and positively with promoters, delivery partners and statutory bodies to plan for required facilities and resolve key planning issues before applications are submitted”.*

- 8.6 The Planning Statement, submitted in support of the application, highlights the demand for Prison places, noting that the prison population is currently forecast to increase over the next decade to unprecedented levels. The government has set out an investment of £3.8 billion which would aim to provide 20, 000 additional places by the mid-2020's.
- 8.7 The statement identifies that HMP Elmley has been identified as a Prison requiring addition accommodation. The proposal would allow for an additional 247 bed spaces. The spaces would be accommodated in a new 4 storey category B houseblock. The proposal would also include a number of
- 8.8 HMP Elmley is located outside of the Built-up area settlement boundaries. The closest settlement to the site is Eastchurch located to the north which is a Tier 4 settlement. The Local Plan identifies Eastchurch being located in the more rural and remote eastern end of the Isle of Sheppey. The plan seeks to focus growth to the western end of the island with the eastern half retaining its remote and tranquil nature.
- 8.9 However, HMP Elmley is located in cluster of prison complexes including HMP Standford Hill and HMP Swaleside. The cluster means the area around HMP Elmley is characterised by built form and associated infrastructure. The proposal would see the additional built form constructed within the existing Prison curtilage which would prevent the sprawl of development into the open countryside.

- 8.10 Paragraph 81 of the National Planning Policy Framework states that:

*“...Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development...”.*

- 8.11 Policy CP 1 of the Local Plan also seeks to support building a strong and competitive economy in the Borough. The prisons on Sheppey act as a notable employer for the Island and its residents. The development would result in additional jobs in support of the increased prison population. The proposal would also see the provision of short-term employment opportunities

in the form of construction, maintenance, and spending power in the local area. The proposal would address the economic objectives of the NPPF alongside the support for public infrastructure.

- 8.12 The proposed new prison block and associated infrastructure and expansion would take place within the confines of the existing prisons curtilage. The siting would prevent a wider sprawl into the open countryside associated with the eastern half of the island. The siting coupled with the increased demands on criminal justice accommodation, and the national policy support for enhanced public service infrastructure it is considered the development is acceptable in principle.

### **Visual Impact**

- 8.13 Policy CP7 requires developments to conserve and enhance the natural environment. The policy lists the ways in which that shall be achieved and includes the requirement for developments to make the enhancement of biodiversity and landscape as their primary purpose. The policy further requires a net gain in biodiversity in line with the NPPF's requirements.
- 8.14 Paragraph 131 sets out that new streets are tree-lined and that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible.
- 8.15 Policy DM14 requires development to provide for an integrated landscape strategy that will achieve a high standard landscaping scheme that informs the earliest stages of a development proposal. Policy DM24 further requires that the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed and that the scale, layout, build and landscape design of development will be informed by landscape and visual impact assessment.
- 8.16 The application site is located in Swale's Landscape Character Area 13 (Central Sheppey Farmlands). The key characteristics of the area are listed as a ridge of London Clay, large scale predominately arable landscape, with infrequent isolated orchards. In amongst this landscape the Prison complex at Standford Hill, which includes HMP Elmley, which are dominate features in the open rural landscapes. The prisons have a wide impact on the adjoining marshland. One of the guidelines for improving the degree of light spillage onto the landscape.
- 8.17 The site is not located within a designated landscape. It does lie due north of an Area of High Landscape Value (Kent Level). The designated landscape is approximately 113m from the HMP Elmley. The prison is enclosed by a continuous wall and the buildings contained within are widely viable and dominate features in the landscape.
- 8.18 The application is supported by a Landscape Visual Impact Assessment, which sets out the impact of the development on the surrounding landscape. The assessment identifies that the majority of the development would be contained within the perimeter wall of the existing prison. The resultant impact is that from wider distances and due to the height of the buildings the main visible parts of the development would be the workshop and houseblock.

- 8.19 These elements will still be seen within the context of the existing complex of buildings. The proposed houseblock would be a storey higher than the existing built form within the prison. The height would not be so significantly different to those within the existing prison complex to highlighting a building as overtly dominate. The height difference would be mitigated through limited light sources above the windows of the fourth storey. The top half of the building would also be clad with dark material to prevent the building standing out during the dark hours in the countryside.
- 8.20 The application site is located remotely which limits public views of the development. The Landscape and Visual Impact Assessment found that by in large the development would result in negligible impact to the landscape. One exception to this was found on the Public Right of Way which is located to the east of the site. The impact from this receptor was found to be moderate/minor adverse. The impact related to the houseblock.
- 8.21 The proposed landscape strategy was found to reduce the impact to minor adverse by year 15. The effects would be localised and from the perspective of the user of the Public Right of Way seen clearly in the context of the existing prison development. A condition would be secured to ensure a landscaping scheme, with sets out that a submission shall reflect the recommended landscape strategy put forward by the applicant. The condition would allow comments made by ecology to introduce further native species planting.
- 8.22 From the arboriculture assessment undertaken the development would mostly only affect low quality trees, which have been graded in accord with the BS5837:2012. The Tree Officer has again requested additional native species planting which could be secured via the landscape condition.
- 8.23 The proposed car park would be located off the existing parking area. The scale would be proportionate to the existing parking space and would not be widely proportionate in the landscape.
- 8.24 The landscape impacts are considered acceptable given the existing impact of the prison complex on the Sheppey landscape. Screening would be conditioned through a landscape condition.

### **Design**

- 8.25 Policy CP 4 of the Local Plan seeks to ensure good design and to ensure that all development proposals are of high quality that is appropriate to the surrounding context. Policy DM 14 of the Local Plan sets out a number of general development criteria. The criteria seek to ensure that the proposal will be of a scale, design, and appearance which is appropriate to the location. The policy also looks to ensure proposals provide an integrated landscape strategy.
- 8.26 Chapter 12 of the NPPF sets out the overarching principles for achieving well-designed places. Paragraph 126 of the NPPF sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 130 lists the criteria that developments should achieve. Paragraph 134 directs refusal of poorly designed development that fails to reflect local design policies and guidance. The paragraph further states that significant weight should be given to developments that do reflect local design policies and relevant guidance and/or outstanding or innovative designs which promote a high level of sustainability.

- 8.27 The proposal would see the construction of a number of buildings within the site. These would include the four-storey house block, two storey staff administration building, two storey workshop/education building, single storey extension to the property store and single storey sports storage building. The entire complex of HMP Elmley is contained within a perimeter wall, with the exception of the car park. The walled enclosure creates a clear definitional boundary for built form. The buildings would sit within the complex which already contains two to three storey-built form. The siting of the buildings is therefore considered acceptable as they would sit in a defined area of built form.
- 8.28 Other than the four-storey house block, the general massing of the built form is in keeping with the existing buildings within the walled confines. The use of pitched roofs, linear/square form and similar tonal and material fabric of the proposed buildings would reflect the wider materiality and character of the site. The buildings are unquestionably, in reference to the administration building and workshop large in scale. The scale is reflective of the functional quality of these buildings and associated use.
- 8.29 The proposed sports storage building would be low rise and modest in comparison to the other proposed buildings. It would have an ancillary form and appearance. The proposed extension to the property store is again modest and proportionate to the host building. The flat roof would reduce the bulk and massing and would be considered an appropriate addition.
- 8.30 The proposed houseblock would sit a storey above the existing development. However, the materiality and roof would be reflective of the existing built form tying it quite clearly to the architectural storey of the existing built form. The layout would deviate slightly in that it would be set out in the form of a 'cross'. The layout provides benefits in creating exercise areas. Further, the 'cross' design does visually break up the overall bulk and massing of the built form.
- 8.31 The proposed design and form is considered acceptable against national and local policy.

### **Heritage and Archaeology**

- 8.32 Policy DM 32 of the Local Plan seeks to ensure that development which affects a Listed Building and their settings. Development will be permitted where development can preserve the buildings architectural or historic interest, its setting and any features of special architectural or historic interest which it possesses.
- 8.33 Section 16 of the National Planning Policy Framework sets out how the historic environment should be conserved and enhanced and makes it clear at paragraph 199 that when considering the impact of a proposed development on a designated heritage asset, local planning authorities should give 'great weight' to preserving the asset's significance, irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance.
- 8.34 Paragraph 200 of the NPPF states that any harm or loss should require clear and convincing justification. Where harm is caused to a heritage asset, the NPPF requires decision makers to determine whether the harm is substantial, or less than substantial. If the harm is deemed to be less than substantial, paragraph 196 of the NPPF requires the harm to be weighed against the public benefits of the proposals. Furthermore, paragraph 203 sets out that the effect of an

application on the significance of a non-designated heritage asset should be taken into account in determining the application.

8.35 The application site does not contain any designated heritage assets, nor is the site located within a Conservation Area. To the northwest of the application site a group of four Grade II listed buildings are located approximately 428.93m from HMP Elmley. The Grade II listed buildings are former Aircraft Hangars referred to as 'Four Hangars'. The list entry provides the following summary:

*Aircraft hangars. 1912, built by the engineers Harbrows for the Admiralty. Steel-framed, with stanchions at 10 ft centres; lower sections of party walls separating hangars and the same stratum of their front elevation are of coarse concrete blocks; corrugated iron cladding; all roofs are of felt on timber boarding. (see List Entry 1391502).*

8.36 In addition to the listed building the Heritage Statement submitted by the applicant identifies a number of surviving structures associated with the military use of the former airbase. The structures are considered to form non-designated heritage assets.

8.37 The proposed development would not result in any direct impact to the heritage assets. The impacts are confined to the setting only. The aircraft hanger's significance principally lies in the historic, architectural, and physical fabric as the first purpose-built aircraft hangers.

8.38 The Heritage Statement acknowledges that the setting of the hangers does contribute to the significance. However, the proximity of mid-late 20<sup>th</sup> century structures associated with the post war development have weakened the setting. The settings contribution is identified by the Heritage Statement as:

- *The interrelationship between the four hangars;*
- *The relationship between the hangars and surviving elements of the former military complex, in particular the former flying field; and*
- *The experience and appreciation of the hangars from within the former military complex, in particular the immediate surrounds from where the architectural detailing and form of the building can be best understood.*

8.39 The statement identifies views of the existing HMP Elmley complex can be perceived from the trackway immediately to the south of the Aircraft hangars. The views are interrupted by intervening built form and are an existing feature.

8.40 The proposed development would be contained within the walled confines of the existing prison complex. The massing and bulk would sit comfortably within these confines and the setting to the air hangar by virtue and existing context would not be harmed.

8.41 Policy DM 34 of the Local Plan states that there will be a preference to preserving archaeological sites in-situ and to protecting their setting. Development which does not achieve acceptable mitigation of adverse archaeological effects will not be permitted.

8.42 The application site is located in an Area of Archaeological Potential. The Archaeological Desk Based Assessment considers the potential for unknown archaeological finds to be low due as

the site is likely to have been heathland until the 20<sup>th</sup> century. The proposal may have potential for finds in connection with the former RAF base.

- 8.43 Any finds may also have been previously disturbed by the construction of the prison complex. KCC Archaeology were consulted on the application and considered that the potential for archaeological finds is higher than stated the officer agrees previous development may have had an impact.
- 8.44 The Officer considered that there is no evidence of heritage assets, nonetheless it remains possible that archaeological remains may be affected by the development. Indeed, some of the works would be located on land that has yet to be subject to significant disturbance. As a result, the officer has recommended a condition be imposed, which could be applied should members be minded to grant consent.
- 8.45 The proposed development is not considered to result in harm in regard to setting to the designated and non-designated heritage assets. Given the proposal would not be considered to result in harm, and assessment of public benefit is not required in accord with the NPPF. The proposal is considered compliant with local and national policy.

### **Residential Amenity**

- 8.46 Policy DM 14 of the Local Plan requires all development, as appropriate, to cause no significant harm to amenity and other sensitive uses or areas. It also requires developments to ensure impacts on residential amenity are minimised and to mitigate any impacts to an acceptable level in respect of safety, including noise, air quality, tranquillity and transport.
- 8.47 Paragraph 130(f) of the National Planning Policy Framework (NPPF) requires that planning decisions seek to create places that are safe, inclusive and accessible, promote health and wellbeing, with high standards of amenity for existing and future residents. The policy continues to state that development should ensure that where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.48 As a generalised rule a distance of 21m is considered an acceptable distance to preserve residential amenity. HMP Elmley is sited in excess of 500m from the nearest residential dwelling. The proposed built form including the additional housing block, workshop, admin buildings, and existing property store would be located within the confines of the prison and would not result in a significant loss of daylight/sunlight, visual intrusion, or loss of privacy to residential properties.
- 8.49 Due to the distance any additional lighting would not be considered to result in a significant disturbance to amenity. Given the sites existing use the additional built form and occupation would not give rise to adverse impacts in regard to light. A condition could be secured to ensure details prevent unnecessary glare.
- 8.50 The proposal would see an uplift in inmates which would have subsequent impacts in regard to the vehicular movements to the site. The car park would see an expansion for an additional 80 parking spaces. The access to the car park is taken from Church Road and Brabazon Road, which passes a number of existing residential properties. The increase in vehicle movements would not be considered to result in significant harm to neighbours in regard to noise and disturbance given the existing context of the site.

- 8.51 Due to the existing use of the site and the separation distance between the prison and the existing residential dwellings is sufficient to conserve the existing amenity levels. The impact is considered acceptable in this regard.

### Highways

- 8.52 Policy DM 6 of the Local Plan sets out the requirements for managing transport demands and impact. The policy requires development proposals involving intensification of any existing access onto a strategic, primary or other route to demonstrate that it is of a suitable capacity and safety standard or can be improved to achieve such a standard.
- 8.53 Policy DM 7 requires compliance with the Swale Vehicle Parking SPD. The policy further requires cycle parking facilities on new development to be of an appropriate design and in convenient, safe, secure and sheltered location. Policy Dm 26 of the Local plan seeks to refuse application that either physically, or as a result of traffic levels, significantly harm the character of rural lanes. Church Road which forms part of the access to the site is classified as a rural lane.
- 8.54 Paragraph 111 of the National Planning Policy Framework states:
- 'Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'.*
- 8.55 Currently the site contains 274 parking spaces for 480 staff which equates to a provision of 1.75spaces per staff member. The proposal for 80 spaces for 101 of staff would equate to a provision of 1.26parking spaces per staff member. The spaces would include 4 disabled spaces. The degree of parking is considered acceptable by KCC Highways, and the number of spaces is considered sufficient to prevent a severe impact to the highway.
- 8.56 As part of updated information, the size of the parking spaces was accepted by KCC Highways. The spaces would need to be secure prior to occupation of the additional accommodation and this would be secured via condition. The proposal would be considered compliant with policy DM 7 of the Local Plan.
- 8.57 An updated Transport Statement and Travel Plan were provided following initial comments from Kent County Council Highways. The Parish Council has raised concerns in regard to the additional traffic volume generated by the additional prisoner spaces. The concerns also related to the cumulative impact of the developments proposed across the prison expansion plans.
- 8.58 The additional traffic generated by the proposal would be considered to result in an additional 38 staff movements in the morning and afternoon shifts (7:30) and (15:30). During the morning period (7:30) an additional 14 outbound movements were identified due to staff leaving night shifts. The analysis was adjusted to take account of the lack of public transport at night.
- 8.59 The results indicated that 8% of staff equating to 4 members of staff would arrive by foot, for which KCC Highways considered to be highly unlikely. As such, KCC Highways would expect the resultant impact to be 42 arrivals by car at 7:30.

- 8.60 In addition to staff movements visitor movements were also analysed on the basis that 3% of prisoners receiving a visit in line with analysis from August (presumably 2021). KCC Highways noted that the analysis is potentially underestimating the visitor numbers given the Covid restrictions have now been lifted. However, Highways acknowledged that given the timings of visitor hours the increase would be unlikely to result in a severe impact on the highway network.
- 8.61 A cumulative assessment with the works at HMP Standford Hill has been undertaken. The assessment indicates an additional 58 two-way movements from 7 – 8am at the main junction of Brabazon Road and the Rowetts Way roundabout. KCC Highways considered this figure to be more likely around 62 two-way movements on the basis of a reduction in assumptions about the number of staff walking to work.
- 8.62 The assessment indicates this to be 1 additional movement per minute. KCC Highways consider based on their own assessment that staff would be more likely to arrive in a 30minute window. The result of this would be to see vehicles arriving at the junction every 30seconds.
- 8.63 Notwithstanding the conflict between the data sets provided by the applicant and KCC Highways considerations, the impact from KCC Highways consideration is that it is unlikely any additional safety concerns for the roundabout junction. The assumption was based on the data available which indicates no safety incidents at this point.
- 8.64 In assessing the updated Travel Plan it was noted that additional measures to encourage car sharing and feasibility of providing a mini-bus trips to the Island. KCC Highways did not consider that hard commitments had been made to meet the proposed mode shift across the term of the Travel Plan.
- 8.65 To secure such shift KCC Highway recommended that a condition be ascribed to any grant of consent. The condition would see evidence submitted to the Local Planning Authority:
- Evidence of existing mode share throughout the life of the Travel Plan,
  - Staff surveys demonstrating who would make use of a free mini-bus to the island,
  - Should the mode share targets not be met, and sufficient justification exists, then the mini-bus service would be provided for as long as the prison remains open.
- 8.66 Such a condition could be imposed on any grant of consent. Due to the inconsistencies between the data and KCC Highways assessment further details will be provided to members in a tabled up-date, including proposed conditions. Further, the project centres the Council's independent highway consultants findings will also be presented to members via means of a tabled update.

### **Biodiversity**

- 8.67 Policy DM14 requires development to provide for an integrated landscape strategy that will achieve a high standard landscaping scheme that informs the earliest stages of a development proposal. The NPPF further requires development to provide provision and use of community facilities, which includes open space.



- 8.68 Policy CP7 requires developments to conserve and enhance the natural environment. The policy lists the ways in which that shall be achieved and includes the requirement for developments to make the enhancement of biodiversity and landscape as their primary purpose. The policy further requires a net gain in biodiversity in line with the NPPF's requirements. This is further supported by Policy DM 28 which further requires proposals to be accompanied by appropriate surveys undertaken to clarify constraints or requirements that may apply to development. Paragraph 180 of the NPPF sets out the principles by which planning applications should be considered against in respect to habitats and biodiversity.
- 8.69 The application site is within the 6km buffer zone of the SAMMS strategy, which is in place to aid in reducing the recreational pressures on the nearby Special Protection Areas (SPA). The SPAs are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires appropriate steps to be taken to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 8.70 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. For such applications, a contribution is requested. Given the fact that the proposal relates to Criminal Justice Accommodation as well as ancillary facilities and parking, the proposal is not of the residential nature that would trigger a contribution.
- 8.71 The judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site." Again, as the proposal is not the type of development that would give rise to the adverse impacts associated with some forms of new development, an Appropriate Assessment was not considered necessary in this instance.
- 8.72 Natural England were consulted and raised no objection to the proposal and did not consider it would give rise to either European sites, or Sites of Special Scientific Interest. Further, Natural England did not request contributions toward the SAMMS strategy.
- 8.73 The application has been supported by an Ecological Appraisal and Bat Survey. The application site due to its containment and use has a low biodiversity value. The Ecological Appraisal identified that no significant ecological constraint was found as a result of the surveys.
- 8.74 The KCC Biodiversity Officer reviewed the application and found sufficient information had been provided as part of the application. The Officer remains satisfied that the proposal would not result in harm to protected species, an informative in regard to breeding birds would be attached to any grant of consent.
- 8.75 The proposal also seeks to achieve Biodiversity Net Gain on site and the metric provided indicate potential gains over 10%. The Biodiversity Officer would have preferred to see more

native species incorporated into the landscape design. A condition could be applied to see further landscaping details to address the native/ornamental planting.

- 8.76 An informative would be attached in reference to the management of the proposed wildflower areas proposed. The proposal is not considered to result in harm to protected species on site and would result in ecological gains. The proposal is considered compliant with local and national policy.

### **Flood Risk and Drainage**

- 8.77 Policy DM 21 of the Local Plan sets out the requirement 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.
- 8.78 The main walled confines of the Prison are, in accord with the Environment Agency flood risk map, within Flood Zone 1 which is an area with a low probability of flooding. The built form of the house block, administration building, workshop, extension, sports equipment store, and playing fields would be located in low flood risk area.
- 8.79 A Flood Risk Assessment by Hydrock was provided by the applicant. The assessment concludes in regard to the built form that the proposal would not result in an un-due flood risk.
- 8.80 The Environment agency risk map does indicate that the proposed extension to the car park would sit partly within Flood Zones 2 and 3 which have a higher flood risk. However, it should be noted the existing car park is wholly within these designations.
- 8.81 Development within Flood Zone 2 and 3 are subject to sequential testing. In accord with the NPPF prison developments are classified as 'more vulnerable' development and car park 'less vulnerable'. The National Planning Policy Guidance states:

*When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere.*

- 8.82 The only element of the expansion to the prison site located in Flood Zone 2 and 3 would be parts of the expanded car park, which is an existing piece of infrastructure. The expansion of the prison could not reasonably be provided elsewhere, and the car park is an ancillary element of the prison structure.
- 8.83 Paragraph 162 of the National Planning Policy Framework states that:
- The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source.*
- 8.84 The proposal would be considered to pass the Sequential Test in this regard. Firstly as there are reasonably no better locations for the expansion of the car park which is required in connection with the prison expansion. Secondly, the car park is a 'less vulnerable' development which is not subject to permeant occupation.

- 8.85 In accord with the Swale Borough Council Level 1 Strategic Flood Risk Assessment the smaller elements of the car park that would be located within Flood Zone 3 are within Zone 3a. In accord with table 3 of the Exemptions Test development in the 'less vulnerable' category, such as car parks, are appropriate in such locations and the test is not required.
- 8.86 The Environment Agency was consulted on the application and has no objection to the proposal. KCC Flood and Water Management have been consulted on the proposal and confirm that they have no objection to the proposal.
- 8.87 KCC Flood and Water Management have acknowledged from the provided Drainage Statement that the proposed developments drainage would connect to the existing prison complex. The surface water discharge would also be restricted to a maximum rate of 2l/s for all storm events up to 100years plus 40% climate change allowance. KCC Drainage welcome this in line with the KCC Drainage and Planning Policy Statement (December 2019).
- 8.88 KCC Drainage requested a condition to be applied in regard to verification reports, the condition could be applied to any grant of consent should members be minded to grant the application. The recommended conditions are set out later in this report.

### **Sustainability**

- 8.89 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.
- 8.90 Policy DM 19 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.
- 8.91 Policy DM 21 also requires that new residential development, all homes to be designed to achieve a minimum water efficiency of 110 litres per person per day.
- 8.92 The application would secure a wider degree of measures to be employed in addressing sustainable energy measures. These include, but are not limited to, solar panels located on the proposed workshop/education building, and administration building which would be located on the south facing roof plane to ensure maximum generation. The buildings would also include high fabric energy efficiency, heat pumps, and energy efficient lighting. These would all be required in connection with achieving a higher BREEAM rating.

- 8.93 In addition to the above, the Council has declared a Climate Change and Ecological Emergency and applications 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; solar panels; passive energy measures, as examples.
- 8.94 Policy DM 19 of the Local Plan sets out that all new non-residential developments will aim to achieve BREEAM 'Good' standard or equivalent as a minimum. The policy continues to set out that all new non-residential developments over 1, 000sqm gross floor area should achieve the BREEAM 'Very Good' standard or equivalent as a minimum.
- 8.95 The proposal would result in an increase in gross floor space of over 1, 000sqm. The application was accompanied by a BREEAM pre-assessment which sets out that the project is seeking to achieve for an 'Outstanding' standard at (>85%). The assessment outlines at a minimum a level of 'Excellent' would be achieved (70%). The ratings are higher than the required standard under policy DM 19 of the Local Plan. Details to ensure the development does achieve the stated standards could be secured via condition.

### **Environmental Matters**

#### *Noise*

- 8.96 Paragraph 174 of the National Planning Policy Framework requires planning decisions to contribute to and enhance the natural and local environment. The paragraph requires a number of measures to achieve this including in the prevention of 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.
- 8.97 The application was accompanied by an Acoustic Report. The report indicates that from the baseline survey undertaken that the existing noise levels were sufficiently low that BS 8223:2014 internal ambient noise levels can be achieved with windows open in the new buildings.
- 8.98 In order to ensure existing amenity levels, the main point of potential noise impact would be found from plant associated with development. The assessment indicates through limits implemented through design would prevent adverse impacts would be considered unlikely.
- 8.99 The assessment was found to be principally acceptable by the Environmental Health Officers. The Officer requested that the BS4112 calculation for noise sensitive receptors be provided as an addendum. These and any required mitigation measures could be secured via a pre-commencement condition, as provided below.

#### *Contamination*

- 8.100 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.
- 8.101 The proposal would see the creation of residential development for occupation as such the proposal would need to ensure any contaminated land is identified and remediated. The proposal was accompanied by a Geotechnical and Geo-environmental Desk Study. The report

recommended intrusive investigations. The intrusive investigation is recommended on the basis that the current development is located 1m above made ground and therefore it is important to classify the ground conditions. The Environmental Health Officer is in agreement with this recommendation and conditions would be applied to secure sufficient remediation of the site.

8.102 To ensure the application site is safe for its intended use, it is recommended that the applicant be required to submit a contamination report prior to the commencement of development and a contamination verification report prior to occupation to ensure the works have been carried out in accordance with the approved method statement. It is also recommended that a further condition be imposed to deal with any unexpected contamination that is not foreseen as part of the initial contamination report.

8.103 Members will note that Environmental Health have not raised objections on this front. Any grant of planning permission would be subject to the imposition of conditions to secure an acceptable remediation for residential occupation.

#### *Air Quality*

8.104 Paragraph 186 of the National Planning Policy Framework states that planning decisions should ensure opportunities to improve or mitigate impacts should be identified.

8.105 An Air Quality Assessment and Simple Assessment were provided as part of the application submission. The assessment was reviewed by the Environmental Health Officer and considered acceptable. The operational air quality impacts were considered low. The main area of impact would relate to dust management during the construction phase. To ensure sufficient mitigation of any dust emission a Dust Management Plan could be secured as a condition. The Environmental Health Officer has noted this could be secured within the Construction Management Plan should members be minded to grant the application.

#### **Open Space**

8.106 Policy DM 17 of the Local Plan states that proposals for residential and other developments as appropriate will safeguard existing and open spaces, sports pitches, and facilities in accordance with national policy.

8.107 Paragraph 98 of the National Planning Policy Framework states that access to high quality open spaces and opportunities for sport and physical activity is important for communities. Paragraph 99 of the NPPF states that existing open space, sports and recreational buildings and land, including playfields should not be built upon unless one of three criteria are met:

- a) An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) The development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

8.108 The proposed development would see the provision of the new house block, to house 247 additional inmates, on top of part of the existing playing field. As a result of the siting of the proposed house block the football pitch/playing field would be lost. Part of the land would however be retained, and this would see provision of alternative sport provision

8.109 Sport England were consulted on the application as a statutory consultee under the Town and Country Planning (Development Management Procedure) (England) Order 2015. An objection from Sports England would trigger the need for a referral to the Secretary of State should committee determine to approve the application.

8.110 Sports England have objected on the basis that the proposal results in the loss of the sports field and is not considered to meet exception E4 of their policy. Exemption E4 states:

*The area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field:*

- *of equivalent or better quality, and*
- *of equivalent or greater quantity, and*
- *in a suitable location, and*
- *subject to equivalent or better accessibility and management arrangements.*

8.111 Sport England have noted the proposal would result in the loss of approximately 0.34 hectares of pitch/playing field area. The proposed mitigating pitches including the 7 aside football pitch and the MUGA pitch are not considered sufficient replacement value to meet exception E4. The basis of this from Sports England's objection is due to the small scale of the MUGA pitch which does not meet FA standards, and the associated use of 7 aside pitches with youth rather than adult facilities.

8.112 Sports England did not consider that the proposal would offer either equivalent or better-quality facilities.

8.113 The proposal would certainly result in a reduction in regard to the area (sqm) of playing field/sports field. This loss is exclusively concentrated on the playing field, which appears to be set out as a football pitch. An equivalent spatial replacement does appear difficult given that the prison compound is secured by a continuous wall which would prevent a natural or easy expansion. Such an expansion into the open countryside may also not be considered acceptable against other national and local policy.

8.114 The use of sports facilities within prison is limited to certain activities. Further, there appears to be a national need for additional prison spaces. The playing field is not available for public use. The sports field is specifically available for prisoner use. The loss would not therefore represent the loss or degradation of a community facility.

8.115 In accord with statements submitted by the agent on behalf of the Ministry of Justice the sports and recreation spaces are not available on an ad hoc basis for inmates serving time. The Prison is a category B/C and therefore inmates are subject to structured days. The inmates will not all have access to recreational/exercise at the same time and the sports facilities are controlled and bookable. The prisoners are allowed to book 2 – 3 exercise sessions a week (each lasting over an hour).

8.116 On the basis of how prisoners would interact with playing fields, which would see select groups at certain hours accessing these facilities, alongside the spatial restrictions of the site, and the overall need for prison spaces and equivalent replacement is not considered achievable. In regard to if the proposal would offer improved facilities, please see the below comparison of facilities existing and total provision after development:

8.117 Currently the facilities available at HMP Elmley include:

- Football pitch,
- Sports Hall,
- Weight training room,
- Cardiovascular training room,
- Resistance training room,
- 6 x Exercise yards (5 with outdoor gm equipment),
- Horticultural building,
- Greenhouse and gardening area.

8.118 The total facilities that would be found on site as a result of the development would include:

- 1 x 7 side football pitch,
- 1x3G MUGA (Multi-Use Games Area) pitch,
- Sports Hall,
- Weight training room,
- 5x cardiovascular training rooms,
- Resistance training room,
- 7x exercise yards (5 with outdoor gym equipment).
- Horticulture building, greenhouse and enlarged gardening area.

8.119 While the proposed MUGA pitch would not meet FA standards the nature of the prison would not see FA matches occurring. Further, the two pitches, and additional exercise areas will cater for a variety of activities which can be used for exercise and recreation. The facilities would provide a variety of options for inmates to take part in. The workshop building and expanded planting area would also have benefits for wellbeing and physical wellbeing.

8.120 Overall, the proposal would be considered to provide improved and more diverse open spaces and areas for mental health and wellbeing. The proposal is also not considered to result in the loss of open spaces widely used by the community. The proposal is considered to meet national policy. A condition would be appended to ensure that the development resulted in different playing surfaces to maximise the potential use of the site.

## **9. CONCLUSION**

9.1 The proposed development for the construction of the four-storey houseblock to provide criminal justice accommodation for 247 prisoners, the construction of a new workshop/education facility, administration building, extension to an existing property store, provision of sports store, 80 additional car parking spaces, and new sports fields/accommodation would be considered principally acceptable.

- 9.2 The proposal would be contained within the existing context and confines of the prison and wider prison complex on the Island. The proposal would provide additional criminal justice accommodation which would address an identified need for a national uplift in prison accommodation and provide enhanced public service infrastructure.
- 9.3 In other matters the proposal is considered acceptable subject to condition. Details of materials, landscaping, and other particulars will need to be satisfied by means of submission. The proposal is considered to provide adequate space for sport and recreation, although the objection from Sport England would generate a need for the Secretary of State to review a recommendation to approve.
- 9.4 As set out by the report, clarifications in regard to the Highways Information is required alongside an assessment from an external independent highway consultant. The additional information will be re-consulted on, and members will be updated at the committee meeting via tabled update.
- 10. RECOMMENDATION** – (Subject to Secretary of State Approval) – Grant subject to the following conditions and comments from KCC Highways (including requested conditions), and with authority to amend conditions as may reasonably be required.

### CONDITIONS

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.  
  
Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall not be carried out other than in complete accordance with the following approved plans and documents:
  - Proposed Education and Workshop Roof Plan – 705674-2201-MDG-036-R1-DR-A-0018-D2-A1600,
  - Underground Utility Services Layout – 115238-001,
  - Underground Utility Services Layout – 115238-002,
  - Underground Utility Services Layout – 115238-003,
  - Underground Utility Services Layout – 115238-004,
  - Underground Utility Services Layout – 115238-005,
  - Underground Utility Services Layout – 115238-006,
  - Underground Utility Services Layout – 115238-007,
  - Proposed Staff Administration Building First Floor Plan – 705674-2201-MDG-035-01-DR-A-0010-S2-A2100,
  - Proposed Staff Administration Building Ground Floor Plan – 705674-2201-MDG-035-GF-DR-A-0009-S2-A2100,
  - Proposed Staff Administration Building Roof Plan – 705674-2201-MDG-035-ZZ-DR-A-0011-S2-A2100,
  - Proposed Staff Admin Building Elevations – 705674-2201-MDG-035-ZZ-DR-A-0012-S2-A1700,
  - Proposed Staff Admin Building Sections – 705674-2201-MDG-035-ZZ-DR-A-0013-S2-A2000,
  - Proposed Education and Workshop First Floor Plan – 705674-2201-MDG-036-01-DR-A-0016-S2-A1600
  - Proposed Education and Workshop Ground Floor Plan – 705674-2201-MDG-036-GF-DR-A-0015-S2-A1600,



- Proposed Education and Workshop Roof Void Plan – 705674-2201-MDG-036-ZZ-DR-A-0017-S2-A2100,
- Proposed Education and Workshop Elevations Sheet 1 – 705674-2201-MDG-036-ZZ-DR-A-0019-D2-A1700,
- Proposed Education and Workshop Sections – 705674-2201-MDG-036-ZZ-DR-A-0021-S2-A2000,
- Proposed Education and Workshop Elevations – Sheet 2 – 705674-2201-MDG-036-ZZ-DR\_A-0025-S2-A1700,
- Proposed Property Store Extension – 705674-2201-MDG-023-GF-DR-A-0005-S2-A1600,
- Proposed Property Store Roof Plan – 705674-2201-MDG-023-R1-DR-A-0006-S2-A16000,
- Existing and Proposed Property Store Elevations – 705674-2201-MDG-023-ZZ-DR-A-0007-S2-A1700,
- Proposed External Sports Store – 705674-2201-MDG-ZZZ-XX-DR-A-0014-S2-A1600,
- Plan-GA-L00(Ground) – 888888-5310-PEV-NPP7110-00-DR-A-1200 Rev P01,
- Plan-GA-L01(First) General Arrangement Plan – 888888-5310-PEV-NPP71 10-01-DR-A-1201 Rev P01,
- Plan-GA-L02(Second) General Arrangement Plan – 888888-5310-PEV-NPP7110-02-DR-A-1202 Rev P01,
- PlanGA-L03(Third) General Arrangement Plan – 888888-5310-PEV-NPP7110-03-DR-A-1203 Rev P01,
- Plan-GA-LR3(Roof Layout) General Arrangement Plan – 888888-5310-PEV-NPP7110-R3-DR-A-1204 Rev P01,
- Plan-GA-LR3(Roof Plan) General Arrangement Plan – 888888-5310-PEV-NPP7110-R3-DR-A-1205 Rev P01,
- Elevations-Ext-Sheet 01 External Elevations – 888888-5310-PEV-NPP7110-ZZ-DR-A-3100 Rev P01,
- Elevations-Ext-Sheet 02 External Elevations – 888888-5310-PEV-NPP7110-ZZ-DR-A-3101 Rev P01,
- Proposed and Existing Property store Sections – 705674-2201-MDG-023-ZZ-DR-A-0008-S2-A1700,
- Proposed Car Park Plan – 705674-2201-MDG-XXX-ZZ-DR-A-0022-D2-A1800,
- Location Plan – 705674-2201-MDG-ZZZ-XX-DR-A-0001-S2-A1800,
- Proposed Site Plan – 705674-2201-MDG-ZZZ-XX-DR-0003-S2-A1800,
- Landscape Strategy – ELM-BPD -XX-XX-PL-L-900001 Rev P02.

Reason: In the interests of proper planning.

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

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

4. The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the Local Planning Authority:
  - A site investigation to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

- A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: In the interest of remediating land for human habitation.

5. A Closure Report shall be submitted upon completion of the works. The closure report shall include full verification details as set out in the verification plan. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

Reason: In the interest of remediating land for human habitation.

6. Prior to the commencement of the development hereby approved details of a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The document shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'. The construction of the development shall then be carried out in accordance with the approved methodology.

Reason: In the interests of air quality and amenity levels.

7. Prior to the commencement of the development hereby approved an addendum report to the RSK Acoustic HMP Elmley CAT c Expansion Acoustic Report, 2060569-RSK-RP-001-(00), the BS4112 calculation for noise sensitive receptors shall be submitted to and approved in writing by the Local Planning Authority. Any mitigation required in regard to noise shall be provided, the approved mitigation measures shall be implemented as approved and maintained as such thereafter.

Reason: In the interest of amenity levels.

8. No development shall take place, including any works of demolition, until a Demolition & Construction Method Statement/Management Plan has been submitted to, and approved in writing by, the Local Planning Authority (who shall consult with National Highways). The Statement shall provide details of:
  - a) Routing of construction and delivery vehicles to / from site,
  - b) Parking and turning areas for construction and delivery vehicles and site personnel and visitors,
  - c) Timing of deliveries,
  - d) Loading and unloading of plant and materials,
  - e) storage of plant and materials used in constructing the development,
  - f) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate,
  - g) Temporary traffic management / signage,
  - h) wheel washing facilities,
  - i) measures to control the emission of dust particulates and dirt during construction,
  - j) a scheme for recycling/disposing of waste resulting from demolition and construction works,

- l) Proposals for monitoring, reporting and mitigation of vibration levels at surrounding residential properties where they are likely to exceed 1mm/s measures peak particle velocity,
- m) Proposed contact details and method for dealing with complaints from neighbours.

The details of the Demolition/Construction Method Statement shall be strictly adhered to throughout the entirety of the demolition and construction period until completion of the development.

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

9. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730 - 1800 hours, Saturdays 0800 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

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

10. Prior to above ground works taking place, details of the external finishing materials, including hard surfacing to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

11. Prior to above ground works taking places an updated Landscape Strategy (from the Landscape Strategy ELM-BDP-XX-XX-PL-L-900001 P02). The updated strategy shall increase the degree of native species planting. The proposed landscaping scheme shall then be
12. The buildings hereby approved shall be constructed to BREEAM 'Excellent' Standard or an equivalent standard and prior to 6 months of occupation the relevant certification shall be submitted to and approved by the Local Planning Authority confirming that the required standard has been achieved.

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

13. The area shown on the submitted plan for the additional parking spaces, as illustrated on plan 705674-2201-MDG-XXX-ZZ-DR-A-0022-D2-A1800 shall be used for or be available for such use at all times when the premises are in use and no development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on that area of land or in such a position as to preclude vehicular access to this area. The parking provision shall be available for use prior to the criminal justice accommodation being first bought into use and retained thereafter in accordance with the details hereby approved. The car parking shall be used solely in connection with the operation of HMP Elmley and for no other purposes.

Reason: Development without adequate provision for the parking, loading or off-loading of vehicles is likely to lead to parking inconvenient to other road users.

14. The proposed buildings hereby approved shall be used for the purposes of criminal justice accommodation, the houseblock, workshop/educational building, extension to the property store, administration building, and sports storage building shall be used in

connection with the wider HMP Elmley prison complex and for no other purposes as may be allowed by the Town and Country Planning (Uses Classes) Order 1987 (as amended).

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

15. Full details of a refuse and recycling strategy including collection arrangements for all uses shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation/first use of the relevant part of the development.

The storage and recycling facilities shall in all respects be constructed in accordance with the approved details, before the relevant part of the development is first occupied and maintained for the lifetime of the development.

Reason: In order that the Council may be satisfied with the details of the proposal.

16. No vehicles delivering to the site hereby permitted shall enter or leave the site between the hours of 07:30 to 09:30 and 16:30 to 18:30 Monday to Friday inclusive.

Reason: To ensure that M2 J5 and A249 continue to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980, to safeguard the local highway network and to satisfy the reasonable requirements of road safety.

17. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

18. Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: In the interest of proper drainage.

19. Prior to the installation of any external lighting details of any lighting columns, the type and luminance of the lighting units with glare shields and details of lux levels both inside and outside the site shall be submitted to and approved in writing by the Local Planning Authority. All lighting shall be switched off (except any agreed security lights) when the site is not in use.

Reason: Any floodlighting or canopy lighting shall be so sited, angled and shielded as to ensure that the light falls wholly within the curtilage of the site and such lighting shall be

of an intensity and type to be approved by the Local Planning Authority before it is first used.

20. Prior to the use of the first building, details of a sensitive lighting scheme to avoid impacts to the local bat population and prevention of light pollution shall be submitted to and approved in writing by the Local Planning Authority. These measures shall be based on the guidance contained in Guidance Note 08/18 Bats and Artificial Lighting in the UK (Bat Conservation Trust and the Institute of Lighting Professionals) and will thereafter be implemented and maintained in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: to ensure any bats that may be present or use the site are not adversely affected by the development.

21. No occupation of the development hereby approved shall occur until details of the Biodiversity Net Gain have been submitted to and approved in writing by the local planning authority showing that the scheme achieves a minimum biodiversity net gain of 10% against the existing site conditions. The development shall be carried out in full accordance with the approved biodiversity gain plan.

Reason: to ensure that biodiversity gains are delivered for enhancement and improvements of habitats.

22. The scheme of landscaping shown on the submitted plans shall be carried out within 12 months of the completion of the development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

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

23. No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any building.

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

24. Full details of the electric vehicle charging shall be submitted to and approved in writing by the Local Planning Authority, providing 10% active spaces and all other spaces to be provided as passive spaces prior to above ground works commencing. The agreed details shall then be implemented prior to first use of the site. All Electric Vehicle chargers must be provided to Mode 3 standard (providing up to 7kw). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

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

25. Prior to bringing the site hereby approved into first use the sports pitches as illustrated on plan 705674-2201-MDG-ZZZ-XX-DR-0003-S2-A1800 (proposed site plan) shall be fully implemented and brought into first use. The pitches shall thereafter be maintained as and no development shall occur that would preclude access to the additional sports provisions.

Reasons: In the interests of open sport and recreation.

26. Prior to the commencement of development hereby approved, details of the surface treatment to both the MUGA pitch and 3G pitch shall be submitted to and approved in writing by the Local Planning Authority. The surfaces shall be different to allow maximum flexibility. The proposed pitches will be implemented in accord with the approved plans and maintained as such thereafter.

Reason: In the interest of open sports and recreation.

## INFORMATIVES

### National Highways:

1. The Construction Management Plan shall include details (text, maps and drawings as appropriate) of the scale, timing and mitigation of all construction related aspects of the development. It will include but is not limited to: site hours of operation; numbers, frequency, routing and type of vehicles visiting the site; travel plan and guided access/egress and parking arrangements for site workers, visitors and deliveries; and wheel washing and other facilities to prevent dust, dirt, detritus etc from entering the public highway (and means to remove if it occurs).
2. To demonstrate compliance with the site delivery condition, records shall be kept of all movements into or out of the site (timings /registration numbers) and shall be made available on request (7 days' notice) to the Local Planning Authority and/or, Strategic or Local Highway Authority.

### Lower Medway Drainage Board

3. I note that the applicant intends to connect and discharge the new surface water drainage network to the existing prison surface water drainage system. This eventually discharges into an existing watercourse (situated approximately 625m southwest of the site) with no other means of draining the site readily available or discussed. Any surface water discharge to a watercourse within the Board's district 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/>).
4. I note the presence of a watercourse which has not been adopted by the Board (a riparian watercourse) within the site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter the riparian watercourse, consent will be required under the Land Drainage Act 1991 (and byelaw 4).

## Ecology

5. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.
6. It is preferable to seed with wildflower seed from a reputable source (with seed from local provenance) rather than using 'wildflower turf'. Both methods have been proposed within the submitted plans. Additionally, the wildflower grassland will only establish and thrive if managed in a very specific but minimal way, i.e., mown at the end of the flowering season with the cuttings removed. The cuttings should be placed in shaded, grassed area for the benefit of breeding reptiles.

## **The Council's approach to the application**

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

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

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

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

