

2.5 REFERENCE NO - 21/505722/OUT		
APPLICATION PROPOSAL		
Outline application for demolition of existing residential dwelling, and for the erection of up to 46 residential dwellings, including affordable housing, with access from A2 High Street (Access only being sought).		
ADDRESS 128 High Street Newington Sittingbourne Kent ME9 7JH		
RECOMMENDATION Grant subject to conditions and Section 106 agreement with delegated authority to amend the wording of the s106 agreement and of conditions as may reasonably be required.		
SUMMARY OF REASONS FOR RECOMMENDATION		
The proposed development would provide additional housing both market and affordable adjacent to a settlement identified on the settlement strategy as a tier 4 settlement. Due to the Council's lack of 5-year housing supply the tilted balance in accord with the National Planning Policy Framework applies. The proposal benefits are considered, on balance, to outweigh the harm.		
REASON FOR REFERRAL TO COMMITTEE		
Newington Parish Council Objection		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Newington	APPLICANT Mr Andrew Wilford AGENT
DECISION DUE DATE 03/02/22	PUBLICITY EXPIRY DATE 15/09/22	CASE OFFICER Corinna Griffiths

Planning History

SW/90/0956
GARAGE
Grant of Conditional PP

1. DESCRIPTION OF SITE

- 1.1 The application site comprises an existing residential dwelling (no. 128 High Street) and its garden, and land located to the rear previously used as paddocks and is currently a grassed open field with several derelict sheds/outbuildings/containers. The plot is approximately 2.66 hectares in area.
- 1.2 The site is located on the southern side of the High Street (A2) in Newington. Part of the site is within the settlement boundary (the existing dwelling and garden area to the south). The remainder of the site is outside the settlement boundary, and therefore within the open countryside.
- 1.3 The site is accessed via a track located between No. 128 High Street and No. 132 High Street. The track also serves as an access to the rear for No. 132 High Street.
- 1.4 The site is broadly regular in shape, extending south to a restricted byway (ZR64) that runs from Callaways Lane to access the adjacent field network. The land raises gently to

the south. The topographical survey shows the north-eastern boundary of the site at circa +31.40m AOD, with the western boundary circa +38.50m AOD.

- 1.5 Public Footpath (ZR61) is situated to the west of the site boundary, that runs from The Tracies southwards and links up with the restricted byway at the south of the site.
- 1.6 There is limited vegetation on site itself with the majority confined to the boundaries where there is a range of extensive hedgerows running along the west and eastern boundaries to no defined edge other than boundary fencing.
- 1.7 There are listed buildings close to the application site: a Grade II listed milestone at 89 High Street is situated 13m to the north of the site entrance (on the opposite side of the A2); and the Grade II Lion House is situated 45m to the north-west (from north-west corner of site).
- 1.8 The application site lies to the southeast of the Newington High Street Conservation Area, and to the northeast of the Newington Manor Conservation Area.

2. PROPOSAL

- 2.1 Outline planning consent is sought for the demolition of existing residential dwelling and erection of up to 46 residential dwellings, including affordable housing, with access from A2 High Street.
- 2.2 At this stage the only detailed element being sought is the access. Other matters such as layout, scale, appearance, and landscaping will be controlled by reserved matters.
- 2.3 In terms of the access, vehicular access to the site will be derived from a new priority junction with the A2 High Street, to be formed via No. 128 High Street (which would be demolished) and the adjacent access track. This would take the form of a priority junction with a 5.5m carriageway width and a 1.8m footway on the western side can be sited in this location. Kerb radii of 6.0m would be provided at each shoulder of the access to accommodate larger vehicle movements. The proposed access design is shown on drawing no. 15809-H-01 Revision P4
- 2.4 The proposal would result in a net increase of 45 dwellings, as the proposal seeks the demolition of an existing dwelling.
- 2.5 The supporting documents have outlined an illustrative housing mix, comprising 46 no. dwellings (including 5no. flats), not exceeding 2 storeys in height. The illustrative housing mix would be a mix of 1, 2, 3, 4 and 5 bed units, with a mix of private and affordable unit as shown on the table below:

	Private	Affordable	Total
1 bed flat	0	6	6
2 bed houses	2	4	6
3 bed houses	19	7	26
4 bed houses	5	1	6

5 bed houses	2	0	2
Total	28	18	46

- 2.6 The proposed density across the site is 26 dwellings per hectare (dph).
- 2.7 An indicative total of 92 residential parking spaces will be provided across the site. These would consist of 32 on-plot bays, together with 14 garages or open sided car barns. A further 46 parking bays will be provided on the access roads and in small parking courts across the site as an unallocated provision for residents, with an additional nine unallocated bays for visitors.

3. PLANNING CONSTRAINTS

- 3.1 Part of the site is within the settlement boundary (the existing dwelling and garden area to the south). The remainder of the site is outside the settlement boundary, and therefore within the open countryside
- 3.2 Potential Archaeological Importance
- 3.3 Public footpath ZR61 is adjacent to the proposed development along the western boundary and connects to a restricted byway (ZR64) to the south of the site.
- 3.4 The site is adjacent to the Newington AQMA, and the proposed vehicular access connects to the AQMA.
- 3.5 There are listed buildings close to the application site: Grade II listed milestone at 89 High Street is situated 13m to the north of the site entrance (on the opposite side of the A2); and Grade II Lion House is situated 45m to the north-west (from north-west corner of site).
- 3.6 The application site lies to the southeast of the Newington High Street Conservation Area, to the northeast of the Newington Manor Conservation Area.

4. POLICY AND CONSIDERATIONS

- 4.1 National Planning Policy Guidance (NPPF) and National Planning Policy Guidance (NPPG).
- 4.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017:

ST 1 – (Delivering sustainable development in Swale); ST 3 – (The Swale settlement strategy), CP 3 – (Delivering a wide choice of high-quality homes), CP 4 – (Requiring good design), CP 7 (Conserving and enhancing the natural environment – providing for green infrastructure), CP 8 – (Conserving and enhancing the historic environment), DM 3 – (The rural economy), DM 6 – (Managing transport demand and impact), DM 7 – (Vehicle parking), DM 8 – (Affordable housing), DM 14 – (General development criteria), DM 17 – (Open space, sports and recreation provision), DM 19 – (Sustainable design and construction), DM 21 – (Water, flooding and drainage), DM 26 – (Rural Lanes), DM 28 – (Biodiversity and geological conservation), DM 29 – (Woodlands, trees and

hedges), DM 31 – (Agricultural Land), DM 32 – (Development involving listed buildings), DM 33 – (Development affecting conservation area)

4.3 Supplementary Planning Guidance (SPG):

- Swale Landscape Character and Biodiversity Appraisal SPD
- Swale Borough Council Parking Standards Supplementary Planning Document (SPD).

4.4 Kent Minerals and Waste Local Plan 2013-30

Policy CSM 5: Land-won Mineral Safeguarding; Policy DM 7: Safeguarding Mineral Resources

5. LOCAL REPRESENTATIONS

5.1 12 objections have been received. A summary of the points raised in the objections is set out below:

- Greenfield site, loss of greenfield land.
- Countryside location, outside the settlement boundary
- Site not in Local Plan or Local Plan Review
- Increased air pollution, harmful impact on air quality and health.
- Lack of infrastructure, and overstretched infrastructure. Eg. Schools, healthcare
- Poor public transport facilities
- Harmful to character of the area, and reduction in separation between other developments, and Sittingbourne. Breaks the ribbon development along the south side of the A2.
- Concerned this will result in development in the fields between The Tracies and Eden Meadows
- Harm to natural environment and reduction in biodiversity
- Harm to residential amenity; harmful outlook onto site; lack of privacy and overlooking from proposed new houses; loss of light; increased noise and disturbance
- Village will become a town
- Increased traffic and congestion along A2 and in Newington
- Access on a narrow part of the High Street
- Highway safety concerns – proposed access unsuitable onto/off A2
- The A2 is difficult to cross for pedestrians

- Overloading of existing sewers and drains
- Loss of a view
- This is on land that is deemed to be 'quality agricultural land' then it is in breach of Local Plan policy DM 31.
- Public Footpath (ZR61) will require a proposed realignment which is not considered in the planning application.
- Concern over loss of privacy and volume of people using a path opposite no. 10 The Tracies.
- Recent appeals dismissed for land to the rear of the high street (eg. APP/V2255/W/20/3245359 on Land at rear of 148 High Street)
- Demolition of 128 High Street would have a detrimental effect on the structural integrity of the 126 High Street, as both properties were constructed as one building.

6. CONSULTATIONS

6.1 Newington Parish Council objects to the application.

The Parish comments dated December 2021 have been appended to this report in full. A summary of the objection is provided below:

- The land where housing is proposed is outside the defined urban boundary of the village (citation of various appeals for residential development that have been refused to the south of the High Street, A2, and within Newington, and surrounding villages)
- The land on which housing is proposed is outside the established built-up boundary of Newington. It borders a public bridleway from which there are outstanding views south towards Wormdale and north over the countryside leading to the estuary
- The access and proposed housing development is between the High Street and Newington Manor Conservation Areas
- This application is against the principles of the Swale local planning authority's development plan and the shortfall in housing supply is not large enough to warrant the harm that would be caused.
- The site is not included in any of the relevant, more recent, Swale Local Plan, or Local Plan Review evidence gathering, and therefore contrary to adopted policies.
- The land is not a 'brownfield' site; it is agricultural land, albeit not extensively farmed in recent years. Conflict with Policy DM31
- Newington has exceeded its housing targets as set out in the Local Plan.
- Harm to the landscape as a result of the proposed development being outside of the built-up area boundary, loss of visual amenity from public footpaths (ZR65 and ZR67/1)

- Harm to the Air Quality of Newington (citation of various appeals), and reference to Pond Farm planning inquiry. Cumulative impact of development will have harmful effects.
- Newington Parish Council is concerned that, if/when improvements to the A249/M2J5 junction are made, this will result in increased traffic flow through the village, impacting through increased pollution within our AQMA
- Detrimental effect on the grade II listed buildings Ellen's Place and Lion House, both located on Newington High Street
- Ecological information is poor quality and downplays species on site.
- Poor public transport
- The proposal would not be 'sustainable' development
- Newington Parish Council have commissioned reports to support their objections, including from the University of Kent regarding air quality, and Railton Transport Planning Consultancy Ltd regarding the submitted transport assessment.

6.2 **Environment Agency – No comments**

6.3 **National Highways – No objection**

6.4 No objection is raised to this application on the basis that the proposals will generate minimal additional traffic on the SRN in Peak Hours. We therefore consider that the development will not materially affect the safety, reliability and / or operation of the SRN (the tests set out in DfT C2/13 para's 9 & 10 and MHCLG NPPF 2021 Paras 110-13), in this location.

6.5 We note, however, that Swale Borough Council/Kent County Council may wish to seek an appropriate financial contribution towards the part Housing and Infrastructure Fund funded A249/A2 Key Street Junction mitigation.

6.6 **Natural England raise no objection** subject to the appropriate financial contribution being secured (namely **£ 275.88** for each dwelling), Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site on the coastal Special Protection Areas and Ramsar Sites. However, due to the People Over Wind ruling by the Court of Justice of the European Union, Natural England advise that the measures to avoid or reduce the likely harmful effects from the development may need to be formally checked and confirmed via an Appropriate Assessment. It is for the Council to decide whether an Appropriate Assessment is required and Natural England must be consulted.

An Appropriate Assessment has been carried out and Natural England and submitted to Natural England for comment. Members will be updated regarding this at the Committee meeting.

6.7 **NHS CCG request a contribution of £42,372.00 towards general practice services within the area.**

- 6.8 The CCG has assessed the implications of this proposal on delivery of general practice services and is of the opinion that it will have a direct impact which will require mitigation through the payment of an appropriate financial contribution.
- 6.9 Requests a contribution of **£42,372.00** (based on a net gain on 45 units) towards refurbishment, reconfiguration and/or extension of Iwade Health Centre and/or Green Porch Medical Partnership and/or Thames Avenue Surgery and/or towards new general practice premises development in the area.
- 6.10 **Southern Water raise no objection, subject to a condition regarding sewerage network reinforcement and an informative regarding foul sewerage and surface water disposal.**
- 6.11 Southern Water has undertaken a desktop study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that these additional flows may lead to an increased risk of foul flooding from the sewer network. Any network reinforcement that is deemed necessary to mitigate this will be provided by Southern Water. As such a condition is requested regarding sewerage network reinforcement
- 6.12 **KCC Archaeology – raises no objection. Advises there is potential for significant archaeological remains to occur on this site and to be affected by proposed development and is satisfied that this can be addressed through a condition for archaeological evaluation with subsequent mitigation that may include preservation in situ of archaeology where appropriate.**
- 6.13 “I note that the site is located to the south of the A2 in open land to the rear of properties fronting the main road and will be accessed from the A2 via 128 High Street and an adjacent access track. The proposed development vis to be concentrated in the northern two thirds of the site with orchards and landscaping to the south. Area of open space will be incorporated into the development design according to indicative illustrative site layout.
- 6.14 The application documentation includes an Archaeological Desk based Assessment by SWAT Archaeology (July 2021). The desk-based assessment provides a good description and assessment of the archaeological potential of the area, rightly recognising the high potential in Newington for remains of Iron Age and Roman date. SWAT have drawn on their experience of the excavations to the north of the A2 at rear of 99 High Street to illustrate the rich resources of the area though I am of the view that the background evidence in this general area would be greater than low potential for prehistoric findings and that it is likely that the lack of evidence is a product of the location of investigation.
- 6.15 In considering the potential for roman activity on this site it is important to consider the focus of activity seen to the north and to the east along with understanding the topography of the site. As explained in the study the works to the north of the A2 found intense industrial activity focused on a round that ran from the Medway through to joining the main Roman road, Watling Street (the A2) to the east of Newington. The main focus of the Roman settlement is likely to have been around that junction as can be seen in investigations on that higher ground both to the north and south of the A2. The main

Roman road has not been located accurately in this area but elsewhere in Swale has been seen to lie to the south of the present A2 though that may be a local aspect. The investigations to the north of the High Street did not locate a great deal of activity immediately alongside the A2 suggesting an element of cleared land as described in the DBA. Topographically the present site sits on the west side of a dry valley that extends from the downs and was seen crossing the site to the north of the A2. Within that valley archaeological remains were buried at depth beneath colluvium. It is possible that similar colluvial depths may extend into the present site. I note the brickearth deposits within the site may be potentially quarried and these would be of interest for their potential to contain remains of Palaeolithic date.

- 6.16 In terms of impacts the site has been mainly open land with some minor development in recent years with outbuildings. Archaeology could survive well both at shallow depth and potentially at greater depths if colluvium is present in the valley. Although there is no indication of archaeological remains in the immediate vicinity of the site, the background potential for Iron Age and Roman date is high and there is potential for other periods including palaeolithic and Bronze Age remains. The development impacts would arise mainly in the northern two thirds of the site though impacts from planting in shallow buried deposits may occur elsewhere.

Given the above I conclude that there is potential for significant archaeological remains to occur on this site and to be affected by proposed development. I am satisfied that this can be addressed through a condition for archaeological evaluation with subsequent mitigation that may include preservation in situ of archaeology where appropriate. Given the illustrative layout this could be achieved through design and layout of open space. The evaluation should be timed to be undertaken ahead of any reserved matters application so that archaeological measures can be taken account of in development design. A condition is recommended to enable a staged approach to evaluation and mitigation of the site's potential impacts on archaeology" (See condition 7).

- 6.17 **KCC Biodiversity** – comments awaited from this consultee, Members will be updated at the committee meeting or via a tabled update.

- 6.18 **KCC Developer Contributions request the following contributions towards infrastructure, and a condition seeking high-speed broadband connections:**

	Per 'applicable' flat (x0)	Per 'applicable' House (x39)	Total	Project
Primary Education	£1,700.00	£6,800.00	£265,200.00	Towards the construction of a new 2FE Primary School in Sittingbourne
Special Education	£262.97	£1,051.82	£41,020.98	Towards the expansion of capacity through new Specialist Resource Provision at Newington Primary School and provision at a satellite school of Meadowfield School, Sittingbourne

Secondary Education	£1,294.00	£5,176.00	£201,864.00	Towards the new Secondary School construction upon land off Quinton Road, NW Sittingbourne policy MU1 and/or increased capacity in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning groups
Secondary Land	£658.93	£2,635.73	£102,793.47	Towards the new Secondary school site acquisition upon land off Quinton Road, NW Sittingbourne and/or land acquisition costs for new Secondary Schools in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning groups.

'Applicable' excludes: 1 bed units of less than 56 sqm GIA and age-restricted dwellings.

	Per Dwelling (x45)	Total	Project
Community Learning	£16.42	£738.90	Contributions requested towards additional equipment and classes at Sittingbourne Adult Education Centre
Youth Service	£65.50	£2,947.50	Towards additional resources and upgrade of existing youth facilities including the New House Sports and Youth Centre in Sittingbourne to accommodate the additional attendees, as well as resources and equipment to enable outreach services in the vicinity of the development
Library Bookstock	£55.45	£2,495.25	Towards additional resources, services, stock, and works to Sittingbourne Library
Social Care	£146.88	£6,609.60	Towards Specialist care accommodation, assistive technology, and home adaptation equipment, adapting existing community facilities, sensory facilities, and Changing Places Facilities within the Borough
	All Homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)		
Waste	£183.67	£8,265.15	Towards additional capacity at the HWRC & WTS in Sittingbourne

6.19 KCC Flood and Water Management raise no objection subject to conditions

- 6.20 Kent County Council as Lead Local Flood Authority have reviewed the Flood Risk Assessment prepared by DHA dated August 2021 and agree in principle to the proposed development.
- 6.21 The current surface water strategy proposes that surface water will be managed through a series of piped networks and permeable paving prior to discharging into an infiltration basin to the east of the site.
- 6.22 We appreciate that these are integrated into open spaces. The information submitted to support the outline component of the planning application has demonstrated how surface water may be managed within an indicative layout.
- 6.23 These have been presented as a high-level strategy and therefore the comments by KCC Flood and Water Management outline areas that will need to be addressed when finalising a detailed drainage scheme which will be sought via condition. This includes the need for further infiltration/soakage tests; comments regarding ownership boundaries; underground services routed outside of permeable paving; grading levels of swales and basins; depth of basins/ponds.
- 6.24 KCC have advised that that full consideration is given to the landscaping of the basins and promotion of multi-functional design. The current basin arrangement may not maximise the open space and biodiversity opportunities available.
- 6.25 **KCC Highways raise no objection, subject to conditions, and a Section 106 contribution towards Key Street highway improvements to the value of £63,248.64.**
- 6.26 05/09/22: Confirmed the value of the requested contribution towards Key Street highway improvements should be **£63,248.64**.
- 6.27 25/08/22: *"I refer to the above application and the Transport Technical Note that has been produced by the applicant's highway consultant to address the outstanding matters raised in my previous consultation response of 18th March 2022.*
- 6.28 *The technical note includes an amended access drawing 15809-H-01 Revision P4, and this demonstrates the provision of the requested visibility splays in accordance with the posted 30mph speed restriction that exists at the site access. I note that the eastern splay has been drawn to a 29cm offset from the carriageway edge, and I consider that this is acceptable, given the presence of drainage gullies to influence the positioning of motorbikes. In addition, and as observed in the technical note, a 20mph speed restriction has recently been introduced just to the west of the access, and this is likely to reduce speeds on the approach.*
- 6.29 *The proximity of the vehicular access to 132 High Street has now been reviewed, and the swept path analysis provided to assess movement does show that the new junction would assist with the turning manoeuvres for the existing property, removing any need for reversing on or off the A2. While there would still be interaction with traffic, the lower levels of activity and speed along the site access than the A2, would mean less chances of conflict than at present. It is also noted that the proposed junction has been subjected*

to an independent Stage 1 Road Safety Audit, and this has not raised any concerns over the design of the access.

- 6.30 *Consequently, I am satisfied that all of the outstanding items raised have now been addressed and can therefore confirm no objection is raised subject to conditions, and S.106 contribution towards Key Street Highway Improvements”.*
- 6.31 18/03/22: Whilst the access drawing has been amended to respond to the comments of the Road Safety Audit, and revised sightlines have been shown, it is not considered necessary to provide site lines in excess of the 30mph posted speed limit through the village, noting also that the eastern sightline has been drawn to a 1m off-set anyway to achieve the 54m y-distance. Consequently, a 43m y-distance would be the requirement, but this would be expected to be drawn to the carriageway edge.
- 6.32 However, it is noted that the formation of the access would place the existing private access for 132 High Street directly on top of the proposed junction radius, and vehicles would need to reverse on or off of the private hardstanding within the junction and over the pedestrian crossing point. Given the junction will be formed onto the A2, it would be expected that no accesses should be within 15m of the junction. As the access arrangements currently stand, the proposed junction would not be in accordance with design guidance. Alternative parking arrangements for 132 High Street are required to remove the vehicle activity from the junction in order to address this concern.
- 6.33 04/02/22:
- “1) A Transport Assessment has been provided with the planning application and, having examined the methodology used for ascertaining the traffic impact of the proposed development, find it to be in accordance with accepted practice. Trip rate calculations have been broken down by the proposed tenures of the 46 dwellings, working on the basis that 28 units will be privately owned houses, 12 will be affordable houses and 6 will be affordable flats. It should be noted, however, that if the matrix of housing tenures were to be amended at any point prior to determination or subsequently through any planning variation, the Transport Assessment would need to be adjusted accordingly and reviewed by this Authority.*
- 6.34 *2) As required, appropriate selection parameters have been used in the TRICS database to derive trip rates for the proposed housing, and these demonstrate that the proposed development would attract around 21 vehicle movements during AM Peak Hour (0800-0900), and 20 vehicle movements during the PM Peak Hour (1700-1800). When this is distributed across the highway network using the local Census data for origins and destinations applied to journey planning, it is expected that approximately 37% of movements would route west of the site, with the remaining 63% routing east.*
- 6.35 *3) The resultant trip distribution would suggest that during the AM Peak Hour, an additional 8 vehicles would pass through the centre of Newington, and 13 vehicles through the Key Street roundabout. During the PM Peak Hour, this would add 7 vehicle movements through Newington and 13 through the Key Street roundabout. This volume of traffic would not usually be considered “severe” under the terms of the NPPF in respect to its likely impact on this section of the highway network.*

- 6.36 4) *However, as this proposed development will create additional vehicle movements at the Key Street roundabout, it will be expected to contribute towards the recovery of HIF money awarded to Kent County Council, in order to undertake planned highway capacity improvements at the roundabout. Consequently, the Highway Authority will seek a Section 106 contribution of £31,200 based on the recovery formula being applied to planning proposals in this locality. In addition, due to the junction being at capacity at present and the impact of cumulative development, further development is being held back until the contract for the highway improvement scheme has been awarded. Should the Local Planning Authority be minded granting planning approval, a Grampian condition will need to be imposed to restrict occupations until then.*
- 6.37 5) *Turning to the proposed site access junction, I am generally satisfied that it meets current design guidance to adequately serve the proposed size of development and cater for pedestrian movements and the expected vehicle types that will use it, although Kent Fire and Rescue would need to be consulted for their views on accessing 46 dwellings from a single point of vehicular entry. A Stage 1 Road Safety Audit has been carried out for the access, and its recommendations accepted by the designer, although I cannot find in the documentation drawing 15809-H-01 Rev P2 which addresses points 2.1 and 2.2, nor can I find the amended tracking plans given in response to point 2.3. These would need to be submitted for verification as soon as possible.*
- 6.38 6) *One concern I do have regarding the submitted visibility splays is that the footway east of the access is shown to be 2.5 metres in width on the access plan, whereas I measure less than 2 metres. As this facilitates the required visibility splay to the east, the dimensions of the plan would need to be checked for accuracy.*
- 6.39 7) *I note that westbound journeys on foot from the access would require crossing the A2/High Street, and that there would be insufficient carriageway space to create a pedestrian refuge. However, the carriageway is of a width and visibility along this section sufficient that it can be crossed by the majority of pedestrians in safety. Furthermore, the site also offers pedestrian connectivity to Callaways Lane and footways linking to the village centre via recent development at The Tracies, utilising part of PROW ZR61. This route actually lies on more of a direct desire line towards local amenities on High Street, when coming from the proposed dwellings. As a minimum, the section of ZR61 that facilitates this link would therefore need to be improved to the standard recommended by Public Rights of Way in their consultation. This link is confirmed on the submitted movement parameter plan, and we would therefore expect it to be realised if this site were to come forward for reserved matters. If it appears that it was not viable, for any reason, then we would reserve the right to request the creation of a crossing point in the vicinity of the main site access to fully facilitate journeys on foot.*
- 6.40 8) *The application confirms that the development will not be offered to Kent County Council for adoption as highway maintained at public expense, although it has been agreed that it will conform to a publicly maintainable standard. As layout and associated parking are reserved planning matters, we will reserve comment on these points until they come forward in detail.*
- 6.41 9) *The proposed development traffic would pass through existing AQMAs at Newington and Key St. Whilst air quality is a matter for the Planning Authority, they may wish to*

consider the appropriateness of requiring a Travel Plan to be prepared in accordance with Local Plan policy DM6. This should set out specific targets, actions and any reasonable mitigating sanctions required to reduce traffic related impact upon the AQMAs.”

6.42 KCC Minerals and Waste raises no objection, subject to a Grampian condition to determine whether a viable Brickearth deposit exists on the site, and to ensure the safeguarded mineral is not sterilised; and a condition regarding a Brick Earth Extraction Method Statement if a viable deposit is found.

6.43 25/10/22: “Given the outline nature of the planning application I am persuaded that the Grampian condition is acceptable, as it does not dilute the safeguarding presumption, though technically appealable it is unlikely to be successfully appealed as its clearly a reserved in principle matter. Therefore, for any detailed planning applications a fully concluded Mineral Assessment with a defined justified exemption (if applicable) that is agreed will remain the acceptable approach.”

6.44 25/08/22: “I have read through the applicant’s submitted Minerals Assessment (MA) in relation to the above outline planning application.

It is clear that there is in high probability that a usable and viable Brickearth deposit is present at the site. It is noted that the applicant states (in the email below) “Wienerberger have indicated that they are interested in the site, but they require further chemical testing to make final confirmation and that they do not have the ability to store the brickearth off site. The brickearth is therefore required to stay on site until such time as Wienerberger can use it.”

Therefore, if the further analysis does conclude that the material is suitable for brick manufacture and that prior extraction is viable and the applicant intends to do this as part of their proposals, the County Council would have no objection to the application on grounds of Policy CSM: 5 Land-won Mineral Safeguarding, of the Kent Minerals and Waste Local Plan 2013-30 (as Early Partially Reviewed 2020).”

6.45 17/02/22: “The applicant has submitted further information arguing that the land-won mineral safeguarding exemption criteria of Policy DM 7: Land-won Mineral Safeguarding can be invoked.

6.46 The applicant concludes that the mineral deposit, though unquantified, is not a viable deposit, and given the access constraints onto the A2 there is a lack of practicality of its extraction. And wishes to invoke criterion 2) of Policy DM 7. Being a site with a developable area of 1.3ha still renders, from any practicable and acceptable amenity impact point of view, all the mineral present to be potentially sterilised. As, it would be totally unacceptable to extract the Brickearth at this site at some point in the future having been partially developed as proposed. Therefore, the proposed development renders all the mineral potential of the site to be sterilised if developed. However, 2.66ha while not an extensive area in terms of mineral extraction for Brickearth, the applicant has not demonstrated an understanding of the potential quantity of usable or unusable mineral deposit at the site. The local mineral operator, Wienerberger UK, require a site to have a yield of at least 50,000 cubic metres to be a viable operation. The site, if it has

depth of some 2.0m of usable Brickearth, would yield some 53,200 cubic metres. Close to the break point required to be a viable prior extraction operation. Therefore, it is considered that the applicant addresses this point and defines the amount of usable Brickearth the site could yield before criterion 2) can be robustly and justifiably invoked. Moreover, I do not regard significant (50m) stand-off buffer zones necessary for the relatively rapid extraction of a superficial economic geology that is Brickearth. Perimeter top soil bunds would be sufficient screening devices to reduce impacts on adjacent residential properties where present.

- 6.47 Therefore, given the above the County council does not consider that the requirements of Policy DM 7 have been satisfied at this time, and correspondingly maintains an objection on grounds of land-won mineral safeguarding pursuant to Policy CSM 5: Land-won Mineral Safeguarding.”

Officer Note: The applicant submitted a Mineral Resource Assessment regarding Brickeath in August 2022.

- 6.48 26/11/21: “The application site is not within 250 metres of a safeguarded minerals or waste management facility. With regard to land-won minerals safeguarding matters it is the case that the area of the application site is coincident with a safeguarded mineral deposit in the area, that being Brickearth. The mineral resource is safeguarded by Policy CSM 5: Land-won Mineral Safeguarding. Therefore, the application details should include a Minerals Assessment (MA) to determine if the safeguarded mineral deposit is being needlessly sterilised, and if not whether an exemption to mineral safeguarding pursuant to Policy DM 7: Safeguarding Mineral Resources of the Kent Minerals and Waste Local Plan 2013-30 can be invoked.”
- 6.49 **KCC Public Rights of Way raise no objection, subject to a contribution of £10,764 to improvements to Public Footpath ZR61 (to provide a 1.5 metre wide all-weather surface to address the increased use of Public Footpath ZR61 which links the new development to the wider public rights of way network)**
- 6.50 “Public footpath ZR61 is adjacent to the proposed development. The path provides an important link between the village of Newington and the surrounding countryside. The proposed development will increase use of the path. It is currently narrow, there is no recorded width for the most part, and it suffers from unkempt vegetation from both sides, including from the proposed development site making pedestrian access difficult at certain times of the year.
- 6.51 The application states that a pedestrian link will be created to connect to public footpath ZR61 and The Tracies. Whilst this is welcomed should you be minded granting consent I would request a condition to ensure that only pedestrian access is available. (Condition 33)
- 6.52 I would request that the applicant considers providing a suitable width for the footpath by addressing their boundary – if the hedge is to be maintained the fence could be removed altogether or if still required installed on the development side of the hedge
- 6.53 The surface of this section of path will require upgrading and the following S106 developer contributions are sought in respect of the development. A sum of **£10,764.00**

is requested to provide a 1.5 metre wide all-weather surface to address the increased use of Public Footpath ZR61 which links the new development to the wider public rights of way network.”

- 6.54 **Kent Police** advise that the applicant apply secure by design homes 2019 principles to the design of the site at reserved matters stage.
- 6.55 **MKIP Environmental Health raise no objection subject to conditions; and securing air quality mitigation (damage cost and additional mitigation measures) via a S.106 agreement.**_
- 6.56 04/08/22: “Previous comments were made on the 21/02/2021 to which Environmental Health had recommended refusal on-air quality grounds, as results in the AQA showed that a significant amount of receptor sites in the two AQMAs (Newington and Keycol Hill) will continue to exceed the National Air Quality Objective 40 $\mu\text{m}/\text{m}^3$ due to the cumulative impacts of the Newington developments sites.
- 6.57 Since then, Environmental Health and Planning teams have had a meeting with Medway Council teams in relation to transboundary air quality issues and cumulative impacts between the Newington and Rainham area. The meeting we had was initially discuss the problem and consider mechanisms we could put in place to deal with this appropriately in the future. The council are investigating the options for this.
- 6.58 However, in the short term the council does not have specific measures or mechanisms in place, therefore will need to ensure the current applications in the planning system provide mitigation over and above the damage cost amount to mitigate the cumulative impacts. I have reviewed the AQ technical note for the above application which provides a breakdown of mitigation measures with estimated costings and benefits. The applicant has provided a good package of measures for the number of houses being provided. These include subsidised public transport ticket options and an E-bike scheme which are both deemed suitable for the scale and location of this development. These too can provide some long-term benefits to the area.
- 6.59 The estimated benefits provide some quantification of the AQ benefits; however, these are solely dependent on the behaviour change in new residents to know if they will be achieved. This is the case for most air quality benefits relative to active travel and reducing car use, as it is all dependent on the uptake and participation of such schemes.
- 6.60 For this reason, I would ask if residents don't take passes, how would the money be managed and that an alternative needs to be in place? This could be written into the legal agreement if approved. I would recommend that a mechanism is put in place to ensure that the money not used for tickets is accounted for i.e., added to the Ebike scheme.
- 6.61 Clarification on these point above need to agree and drawn into the S106 agreement, if approved and should be incorporated into the sites Travel Plan to ensure measures are monitored, managed appropriately, and reported to the Local Authority”
- 6.62 21/02/22: “The amended AQA was completed in January 2022 which now includes table 17 for proposed and committed flows for Newington developments sites only. The

results from this show nine of the receptor locations in the assessment to have a substantial impact and two locations with moderate impact by the year of 2024. Table 15 shows the development impact alone shows five receptor locations having moderate impact. Table 16 shows proposed and committed development sites for Newington and Rainham development with substantial impacts at even more receptor sites, as a result of high traffic flows coming from Rainham development sites.

- 6.63 There are significant limitations within this part of the district as there are currently no other alternative routes to support new walking and cycling routes or reduce car usage. A radical strategic scheme of mitigation measures is needed to mitigate the cumulative impacts identified in the air quality assessment, and this is not evident in this application. For this reason, I recommend refusal on air quality grounds, as results in table 17 justifiably show that a significant amount of receptor sites in the two AQMAs (Newington and Keycol Hill) will continue to exceed the National Air Quality Objective 40 μm^3 due to the cumulative impacts of the Newington developments sites alone.”
- 6.64 20/12/22: Provided comments setting out that further information was required regarding air quality (cumulative impacts). In terms of contamination, following on the submitted preliminary risk assessment, no objection is raised subject to a contamination condition.
- 6.65 Noise: I have reviewed the Noise Assessment Report completed September 2021 by Auracle Acoustics for this outline application. The report shows that indoor and outdoor amenity areas will not exceed the noise level guidance provided by BS8233:2014. It is evident that being set back from the road has reduced the noise impact from the A2/ High Street.
- 6.66 Conditions are recommended regarding piling activities; strategy for noise during any piling; and construction hours condition.
- 6.67 **Rural Planning LTD** concludes that under both National and Local Plan policy that the loss of agricultural land, in this case, is a potentially adverse factor in principle, but only to a relatively limited extent. The degree of weight to be given to this, in terms of the overall Planning balance, is of course a matter for the Council.
- 6.68 “The application would involve an area of some 2.66 ha (6.57 acres) which is presumably designated as agricultural land although it appears to be largely scrub/weedy grassland with some trees, which has had no agricultural use for many years. There are a number of derelict buildings/sheds. No detailed Agricultural Land Classification survey of the land appears to have been undertaken in preparation for this application but given the general location and the typical nature of soils in this area, and the findings of a relatively detailed 1976 Soil Survey report of the area, it is fair to assume that it falls within one of the higher grades within the “Best and Most Versatile” category.
- 6.69 Paragraph 112 of the NPPF states: “*Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.*”

- 6.70 The more detailed Policy DM 31 of the Council's Local Plan (2017) states:
“Development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. Development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:
- 1. The site is allocated for development by the Local Plan; or*
 - 2. There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and*
 - 3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land”.*
- 6.71 “Significant” development of agricultural land is not further defined in the NPPF, but in this case, given the land's lack of active agricultural use and the relatively small area, on balance I would suggest its loss should not be seen as particularly significant, in principle, in terms of the NPPF guidance.
- 6.72 Local Plan Policy DM31 (without including the “significant” parameter) requires consideration of whether the development arises from an “overriding need that cannot be met on land within the built-up area boundaries”. This aspect of housing need is not a matter within Rural Planning Limited's advisory remit.
- 6.73 Assuming, however, the test of need to be met, Local Plan Policy DM31 (specifically in terms of BMV land) requires consideration as to whether the particular choice of BMV land would be allowable as one of the two above Exceptions.
- 6.74 I understand Exception 1 does not apply, the site not currently being within a Local Plan allocation. Regarding Exception 2 the submitted Planning Statement does not include any detailed analysis to demonstrate that there are no other suitably sustainable sites of a lower grade with the Local Plan's area. Nor does Rural Planning Limited possess the necessary data to advise whether there are other feasible sites of lower quality, nor whether the choice any such lower grade sites would significantly and demonstrably work against the achievement of sustainable development. The Council, however, may be aware if there are any other such sites.
- 6.75 Regarding Exception 2's additional requirement “3”, as already indicated above it appears there are no implications for the viability of any remaining agricultural holding. There could be some risk of accumulated further loss of high-quality land regarding the adjoining parcels of land immediately to the east and west of the site, although currently these also appear not to be in particularly active or productive agricultural use.
- 6.76 In conclusion therefore, under both National and Local Plan policy I consider that the loss of agricultural land, in this case, is a potentially adverse factor in principle, but only to a relatively limited extent. The degree of weight to be given to this, in terms of the overall Planning balance, is of course a matter for the Council.”
- 6.77 **SBC Affordable Housing Manager has provided comments setting out that 18 dwellings will be required as affordable units, with 25% will need to be First Homes (FHs) and the remaining 75% Social Rented housing (SR). The comments**

include a more comparable mix of affordable housing in the orange columns as per Policy DM8 of the Council’s adopted local plan, Bearing the Fruits.

- 6.78 In accordance with Policy DM8 of the Council’s adopted local plan ‘Bearing the Fruits’, 40% (all other rural areas) of the 45 additional dwellings being provided should be delivered as a good mix of 18 affordable homes that meet housing need of local households. Of the 40% affordable housing, 25% will need to be First Homes (FHs) and the remaining 75% Social Rented housing (SR).
- 6.79 Therefore, this application should include Four First Homes as part of the s106 affordable housing contribution in order to comply with latest national policy.
- 6.80 The remaining 14 (75%) affordable homes should be provided as social rented housing in accordance with First Homes policy and guidance that requires “Once a minimum of 25% of First Homes has been accounted for, social rent should be delivered in the same percentage as set out in the local plan”. The Council’s adopted local plan (7.3) requires a tenure split of 10% intermediate housing with 90% affordable/social rented housing. This now means that when taking account of the new First Homes requirements, the remaining 75% of s106 affordable housing should be secured as social rented.
- 6.81 In accordance with Local plan policy CP3, a good choice of housing types should be provided, including as affordable, to ensure the delivery of a reasonable and proportionate mix to the open market homes, including larger 4-and 5-bedroom houses were provided on development sites.
- 6.82 Whilst I appreciate this is an outline application with an indicative housing schedule, this is what has been used as the basis to set out the initial s106 affordable housing requirements. Therefore, any changes made to the accommodation schedule will also need to be reflected in the affordable offer so that an agreed reasonable and proportionate mix is maintained with the correct tenure split of 25% FH’s and 75% SR.
- 6.83 The table below provides further detail on the type, tenure split, and mix of affordable homes required against the indicative offer as noted in the application form but includes the deduction of one 4+ house to account for the existing unit which cannot be considered when calculating the number and type of s106 affordable homes that need to be provided. I have suggested a more comparable mix of affordable housing in the orange columns as per Policy DM8 of the Council’s adopted local plan, Bearing the Fruits:

Property Type	TOTAL net gain	Private Housing	40% Affordable Housing Offer	40% Policy Compliant Mix Required	25% First Homes Required	75% Social Rented Required
1BF	6	0	6	2	0	2
2BH	6	2	4	3	0	3
3BH	26	19	7	10	3	7
4BH+	7	6	1	3	1	2
TOTAL	45	27	18	18	4	14

- 6.84 As supported by policy's DM8 and CP3, the affordable homes should be designed for use by disabled and made available for a variety of groups including families, vulnerable and older persons households. Along with housing need demonstrated on the Council's Housing Register and with the requirements of the Equality Act, I would recommend that two social rented dwellings be provided to Part M4(3) standard (wheelchair user dwelling) and that one-bedroom ground floor flats best meet this need. The remaining affordable homes should be provided as Part M4(2) standard (accessible and adaptable dwellings).
- 6.85 As supported by the Council's SPD (2009), the affordable homes should be well integrated within the development, not be visually distinguishable from the market housing and be located in appropriately sized clusters.
- 6.86 I can confirm that Swale's Housing Register demonstrates a need for all types and sizes of accommodation for those in housing need in the Newington and Sittingbourne area, including supported and adapted homes.
- 6.87 **SBC Greenspaces Manager** - comments awaited from this consultee, members will be updated at the committee meeting or via a tabled update.
- 6.88 **Swale Footpath Group** note that it seems that public footpath ZR 61 to the west of the site and the track to the south would not be affected.

7. APPRAISAL

Principle of Development

- 7.1 Part of the application site comprising the existing dwelling, and garden area for 128 High Street are situated within the built-up area boundary of the settlement of Newington. The remainder of the site adjoins the built-up area boundary and is therefore located just outside the built-up area boundary. The proposed new residential dwellings would be situated outside the defined boundary. Policy ST 3 of the Local Planning Authority sets out the Swale Settlement Strategy. The policy indicates that the primary focus for development is Sittingbourne, with Faversham and Sheerness forming secondary areas for growth.
- 7.2 Rural Local Services Centres are identified by policy ST 3 as a tertiary focuses for growth. Newington forms one of the Rural Local Service Centres and is therefore relatively high on the settlement strategy. As the majority of the site (and proposed new residential development) lies outside of the built-up area boundary it is considered to be located in the open countryside.
- 7.3 Most of the application site is not considered as previously developed land, as the field has been previously used as paddocks and is currently a grassed open field with a number of derelict sheds/outbuildings/containers. The site is not currently used for agricultural purposes, it appears to be largely scrub/weedy grassland with some trees, which has had no agricultural use for many years.
- 7.4 Policy DM 31 of Swale Local Plan indicates that development on agricultural land will only be permitted where there is an overriding need that cannot be met on land within the built-up area boundaries. The policy indicates that development on Best and Most

Versatile agricultural land (specifically Grade 1, 2, and 3a which is referred to as best and most versatile land – BMV) will not be permitted unless three criteria have been met.

- 7.5 The land in question comprises approximately an area of 2.66 ha (6.57 acres) but does not appear to be in active agricultural use, and formerly in equestrian use. The Rural Planning Consultant commented on the proposal and outlined that whilst no detailed Agricultural Land Classification has been undertaken, given the general location and the typical nature of soils in this area, and the findings of a relatively detailed 1976 Soil Survey report of the area, it is fair to assume that it falls within one of the higher grades within the “Best and Most Versatile” category.
- 7.6 With regard to para 112 of the NPPF, the Rural Planning Consultant advises that given the land’s lack of active agricultural use and the relatively small area, on balance its loss should not be seen as particularly significant, in principle, in terms of the NPPF guidance.
- 7.7 Swale Borough Council currently has a 4.8 Housing Land Supply (HLS) which demonstrates an identified housing need. The Local Plan is also more than 5 years old. Currently insufficient allocations exist to meet the housing demand. As such an assessment of the three criteria of policy DM 31 will be undertaken. The three criteria are as follows:
- “1. The site is allocated for development by the Local Plan; or*
 - 2. There is no alternative site on land of a lower grade than 3a or that use of land of lower grade would significantly and demonstrably work against the achievement of sustainable development work against the achievement of sustainable development; and*
 - 3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land.”*
- 7.8 With regard to Policy DM31, the Rural Planning Consultant has commented that exemption does not apply. Regarding 2 and 3, the comments conclude that it appears there are no implications for the viability of any remaining agricultural holding. There could be some risk of accumulated further loss of high-quality land regarding the adjoining parcels of land immediately to the east and west of the site, although currently these also appear not to be in particularly active or productive agricultural use.
- 7.9 In conclusion therefore, under both National and Local Plan policy the Rural Planning Consultant advises that the loss of agricultural land, in this case, is a potentially adverse factor in principle, but only to a relatively limited extent.
- 7.10 Paragraphs 11 and 73 of the National Planning Policy Framework (NPPF) requires Local Planning Authorities to meet its full, objectively assessed needs (OAN) for housing and other uses. The Council should annually update a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional 5% buffer.

- 7.11 The latest published position within the ‘Statement of Housing Land Supply 2020/21 Swale Borough Council June 2022’, identifies that the Council is meeting 105% of its requirement. As a result, the Council has a 4.8 Housing Land Supply. As a result, the Council cannot demonstrate a 5 year supply a presumption in favour of sustainable development must be applied under paragraph 11 of the NPPF.
- 7.12 Paragraph 11 of the NPPF states that in making decisions planning authorities should apply a presumption in favour of sustainable development. In regard to decision meeting this means:
- ‘(c) approving development proposals that accord with an up-to-date development plan without delay; or*
- (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date⁸, granting permission unless:*
- (i) the application of policies in this Framework that protect areas of particular importance provides a clear reason for refusing the development proposed⁷; or*
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
- 7.13 Footnote 7 of the NPPF identifies areas defined as ‘areas of particular importance’. The application site is not bound by any constraint which would place the site in an ‘area of particular importance’. The site would therefore fall to be considered under, Paragraph 11(d)(ii). The proposal will therefore be assessed as to if the proposal represents sustainable development.
- 7.14 Paragraph 8 of the National Planning Policy Framework (2021) states that:
- ‘Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives)’.*
- 7.15 (a) **an economic objective** – to help build a strong, responsive, and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.
- 7.16 The proposed development would consist of residential development and would not incorporate direct commercial/economic benefits.
- 7.17 The provision of residential housing does generate passive economic benefits as additional population can see additional spending in local centres. The development would have some short-term benefits related to the employment generated throughout the construction process. The provision of jobs and requit spending in the locality because of development would see short term economic benefit.

- 7.18 The proposal would not have a direct economic impact through the creation of an employment unit, but some moderate weight would be attached to the economic benefits of the economic role.
- 7.19 (b) **a social objective** - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- 7.20 The proposal would provide additional housing to the Borough. As the council cannot demonstrate a 5-year supply, a buffer would be required on top of the identified need. As such there is an identified shortage of housing both in market and affordable units. The provision of 28 market houses and 18 on-site affordable units would contribute to the provision of housing for present and future generations.
- 7.21 The applicant has indicated that the site will support the provision of affordable units and would provide a full 40% on-site provision (18 units). In considering the affordability ratio in the south-east, for which house prices far outweigh average earnings, the provision of on-site affordable units would provide a tangible social benefit. There is a need for affordable units across the Borough and this includes Newington.
- 7.22 The application site is within a 10minute walk from Newington train station and shops and services along Newington High Street. The Manual for Streets guidance indicates that:
- 7.23 'Walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes' (up to about 800m) walking distance of residential areas which residents may access comfortably on foot...Mfs encourages a reduction in the need to travel by car through the creation of mixed-use neighbourhoods with interconnected street patterns, where daily need is within walking distance of most residents.
- 7.24 The access to the wider countryside and to services would be within sustainable walking distance. The proposal would provide a pedestrian connection point to the existing PROW (ZR61) which runs along the western boundary; and would secure a contribution to improvements to Public Footpath ZR61 (to provide a 1.5m wide all-weather surface). As such the proposals would help integrate the new dwellings within the existing settlement of Newington and help provide improved links to the wider network of public footpaths. The proposal would provide a degree of support for the communities' health, social, and cultural wellbeing.
- 7.25 The proposal would be considered to provide significant social benefits in considering the site's overall social objectives.
- 7.26 (c) **an environmental objective** – to protect and enhance our natural, built and historic environment, including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

- 7.27 Policy ST 3 of the Swale Local Plan indicates that development will not be permitted on sites which are in the open countryside and outside of the defined built-up area. The policy does state such development would only be allowed if supported by national policy and would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 7.28 The application site is located just outside of the built-up area boundary of Newington. The site is not located within a designated landscape area either nationally or locally. However, the site is located within an area which does sit outside of the defined boundary of the built-up area of Newington.
- 7.29 The site is situated to the south of the High Street (A2), with open fields to the south of the application site. The impact to the landscape will be considered below. However, it is noted that the proposal would have some localised harm to footpath ZR61 and The Tracies, no significant adverse impacts are identified in terms of landscape effects. However, given the scale and siting of the development could be subject to landscape screening, controlled by future reserved matters.
- 7.30 As above, the proposal would be located within the recommended 10-minute walking distance to local services and amenities including food shops and pharmacies. The site is also within reasonable walking distance to the railway station which would provide wider access to other facilities in Kent. The proposal would also provide improved pedestrian links in the area. The location and improved services would reduce the overall reliance on the car to meet day to day needs.
- 7.31 While some bus and rail services may be considered limited by third parties, the services would be available within walkable distances. The presence of these service for a rural area does increase the sustainability of the site as the settlement does benefit from transport services. As such, the site is not wholly isolated from existing infrastructure.
- 7.32 The proposal would be considered to have a moderate weight in meeting an environmental objective.

Landscape/Visual Impact

- 7.33 Policy CP 7 of the Local Plan states that the Council will work with partners and developers to ensure the protection, enhancement and delivery, as appropriate, of the Swale natural assets and green infrastructure network. These include strengthening green infrastructure and biodiversity.
- 7.34 Policy DM 24 of the Local Plan states that the value, character, amenity and tranquillity of the Boroughs landscapes will be protected, enhanced, and, where appropriate, managed. The policy is split into parts with part B applying to this site.
- 7.35 The application site is not located within either a national, Kent or local land designation.
- Part B of policy DM 24 relates to non-designated landscapes. It states that non-designated landscapes will be protected and enhanced and planning permission will be granted subject to;

1. The minimisation and mitigation of adverse landscape impacts, and
 2. When significant adverse impacts remain, that the social and or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.
- 7.36 The site is located to the south-east of Newington, to the south of residential development on High Street and east of residential development at The Tracies. Arable fields with small areas of orchard lie to the south, while smaller fields in use for horse pasture and arable use lie to the east. The site covers an area of approximately 2.7 hectares (ha) and currently comprises grazing land for horses. Patchy hedgerows line the eastern, southern and south-western boundaries, with some reinforcement by post and wire fencing. In-garden vegetation and fence panels form the northern and north-western boundaries. The site slopes gently from 37m in the south to 32m in the north.
- 7.37 In accord with the Swale Landscape Character and Biodiversity Appraisal 2011 the site is located within the Newington Arable Farmlands landscape designation. The site sits on the edge of this designation due to its proximity to the built area of Newington. The site is at the north-western boundary of this character area.
- 7.38 The key characteristics of the area are detailed as being a rolling arable landscape; settlement limited to ribbon development along major roads and isolated farmsteads; mixed field pattern, generally medium scale; few isolated woodlands at field margins; views mainly enclosed by topography, roadside screening and built development.
- 7.39 The condition of the LCA is reported as poor, due to the loss of internal field boundaries especially hedgerows, and replacement with post and wire fencing. This causes a sense of openness and lack of structure within the landscape. The LCA is considered to have low sensitivity. Rolling topography and intermittent vegetation restrict views into and out of the LCA. The landscape lacks distinctiveness and a sense of place, which is exacerbated by 20th century housing. Important historic elements in the landscape include isolated farms and traditional residential buildings.
- 7.40 The application has been supported by a Landscape and Visual Impact Assessment (LVIA) which has been externally reviewed by LUC (Land Use Consultants).
- 7.41 The application has been supported by an illustrative site layout plan and parameter plan. This shows that the built form of development would be located in the northern part of the site, with the southern part of the site free from built development. The southern part of the site would be a community orchard, with buffer planting along the southern boundary and majority of the eastern and western boundaries where these adjoin adjacent fields.
- 7.42 The proposed built form of the proposed development would be situated adjacent to existing residential dwellings in Newington, including existing development to the south of the A2 at the Tracies, and along Callaways Lane. While the proposal would sit outside of this boundary its scale is not disproportionate to overall urban confines of Newington and the existing urban sprawl.

- 7.43 Further, the proposed community orchard and dense landscaping along the site boundaries, will help form a new soft edge to the settlement boundary. The screening proposed along the west/southern/eastern boundaries would take a period to establish. However, this would mute the overall impact of the development to the wider rural views. Details of landscaping are a reserved matter; however, it would be expected that any future reserved matters application includes a full detailed landscape scheme, including details of how the community orchard and landscape buffers would be managed and maintained.
- 7.44 The proposal would have more immediate impact rather than longer wider implications to landscape views. The undulation of the natural topography of the area would be retained and would work to aid in reducing the overall view/impact of the proposal.
- 7.45 The submitted LVIA outlines the only significant landscape effects are judged to be on the vegetation at year 15, which is judged to be moderate beneficial. No significant adverse effects on landscape character are recorded.
- 7.46 In the review by LUC, they set out that the beneficial effects at year 1 have been overstated, as the loss of agricultural lane, albeit in poor condition, and replacement with built development over a large part of the site will result in an adverse landscape effect, despite mitigation, at least in the early years of the scheme, until planting has matured. Overall, the comments by LUC note that the judged effects on landscape character are reasonable, and do not identify any significant adverse impacts that would occur in terms of landscape effects.
- 7.47 The submitted LVIA outlines there would be a major adverse impact to the users of PROW ZR61, reducing to a minor adverse impact in year 15. In the review by LUC, they consider that significant visual effects will also occur for users along the local PROW network in year 1 (ZR64). Overall, no significant adverse impact on the PROW network or public vantage points have been identified. LUC have outlined that some residents at the Tracies will experience a significant visual change in year 1 and year 15. The harm identified would be limited to localised viewpoints.
- 7.48 The proposed development will have an additional impact on the wider landscape by virtue of the introduction of built form whereby none exists currently (aside from the small outbuildings on site). The height and location of development has been carefully considered so as to ensure that the impact of the proposal is limited. Moreover, the final layout and massing of the units is not established at this stage and further analysis will be undertaken when the detailed element is worked up. The restrictions imposed via the parameter plan, in terms of the location of the built form, and limiting the height of the development to 2 storeys reflect the outcome of the LVIA. Moreover, the proposal seeks to introduce additional screening to further mitigate the impact of the proposal. It is recommended that a condition be imposed requiring an LVIA to be submitted at reserved matters stage to ensure that the impacts are no greater than that which has been hereby assessed and to ensure that the detailed design duly accounts for the potential impact.

Access and Highways

7.49 Policy DM 6 of the Local Plan seeks to manage transport demand and impact. Policy DM 7 of the Local Plan provides guidance on parking standards alongside the Swale Borough Council Parking Standards SPD.

7.50 Paragraph 111 of the National Planning Policy Framework states that:

‘Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or residual cumulative impacts on the road network would be severe’.

7.51 As noted above, the application is seeking outline consent, with details of access being sought at this stage. Vehicular access to the site will be derived from a new priority junction with the A2 High Street, to be formed via No. 128 High Street (which would be demolished) and the adjacent access track. This would take the form of a priority junction with a 5.5m carriageway width and a 1.8m footway on the western side can be sited in this location. Kerb radii of 6.0m would be provided at each shoulder of the access to accommodate larger vehicle movements. The proposed access design is shown on drawing no. 15809-H-01 Revision P4.

7.52 KCC Highways have reviewed the submitted access details through the application process and advised they are generally satisfied that it meets current design guidance to adequately serve the proposed size of development and cater for pedestrian movements and the expected vehicle types that will use it. Clarification was requested during the application process regarding tracking plans and visibility splays, and further information and an amended access drawing have been provided to support the application. The proposal would allow for refuse vehicles to traverse through the site and exiting in a forward gear.

7.53 In the comments dated 25/08/22 provided by KCC Highways it is advised that the updated access drawing is acceptable, it will provide the required visibility splays and notes the junction has been subjected to an independent Stage 1 Road Safety Audit, and this has not raised any concerns over the design of the access.

7.54 The revised Transport Statement indicates that the proposed development would attract around 21 vehicle movements during AM Peak Hour (0800-0900), and 20 vehicle movements during the PM Peak Hour (1700-1800).) The resultant trip distribution would suggest that during the AM Peak Hour, an additional 8 vehicles would pass through the centre of Newington, and 13 vehicles through the Key Street roundabout. During the PM Peak Hour, this would add 7 vehicle movements through Newington and 13 through the Key Street roundabout. This volume of traffic would not usually be considered “severe” under the terms of the NPPF in respect to its likely impact on this section of the highway network.

7.55 The development would still be expected to contribute towards the recovery of the HIF money awarded to Kent County Council for carrying out highway capacity improvements to Key Street roundabout, as was stipulated by the Department for Communities and Local Government. The requested contribution is £63,248.64. based on the recovery formula being applied to planning proposals.

- 7.56 In terms of pedestrian connectivity, the proposal offers pedestrian connectivity to Callaways Lane and footways linking to the village centre via recent development at The Tracies, utilising part of PROW ZR61. KCC PROW have sought a contribution to enhance the public footpath network here, which KCC Highways concur with. The comments advise that as the link is shown on the parameter plan, they would expect it to be realised if this site were to come forward for reserved matters. If it appears that it was not viable, for any reason, then KCC Highways would reserve the right to request the creation of a crossing point in the vicinity of the main site access to fully facilitate journeys on foot.
- 7.57 An indicative total of 92 residential parking spaces will be provided across the site. These would consist of 32 on-plot bays, together with 14 garages or open sided car barns. A further 46 parking bays will be provided on the access roads and in small parking courts across the site as an unallocated provision for residents, with an additional nine unallocated bays for visitors. The indicative details provided would meet the requirements of the Parking Standards SPD in terms of parking numbers, and distribution between on-plot parking, and unallocated provision. No objection is therefore raised regarding parking, and it is considered that full details can be secured at the reserved matters stage.
- 7.58 The proposal would not be considered to result in a severe impact to the local highway network. The proposal subject to conditions and developer contribution would be considered acceptable.

Design

- 7.59 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.
- 7.60 Policy CP4 sets out the requirements for requiring good design and necessitates that all development proposals will be of a high-quality design that is appropriate to its surroundings. The policy goes on to list the ways in which this shall be achieved.
- 7.61 Policy DM14 of the Local Plan sets out the General Development Criteria for development proposals. This includes a number of requirements including the requirement that proposals be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location; those proposals provide for an integrated landscape strategy that will achieve a high standard landscaping scheme and those proposals reflect the positive characteristics and features of the site and locality.
- 7.62 The applicant has submitted a parameter plan which does establish parameters for the future development and gives an indication of layout. This shows that the built form of development would be located in the northern part of the site, with the southern part of

the site free from built development. The southern part of the site would be a community orchard, with buffer planting along the southern boundary and majority of the eastern and western boundaries where these adjoin adjacent fields. The maximum building height is set at 2 storeys, and this would be conditioned.

- 7.63 The Urban Design Officer has provided comments on the illustrative layout, and there are some elements that are positive such as the perimeter block layout which will create a well overlooked public realm, and the small pocket of housing is close to a grid form that is legible with streets that are as straight and as direct as possible complete featured open spaces that form navigable features.
- 7.64 The Urban Design Officer has identified areas that will need to be addressed at reserved matters stage including retention and enhancement of existing vegetation on site boundaries; provision of sufficient street trees; a connected network and variety of multi-functional landscapes and open spaces.
- 7.65 The Urban Design Officer has therefore set out that for Reserved Matters a full context study is required to inform the design and to ensure that the site is positively integrated into the context. A local study will be undertaken (regarding urban design, landscape character and architecture) and the design response to the study applied to the place will be clearly set out. The masterplan will be based on a design response to a local study, and the local study should be a stand-alone document and once finalised will not change. This will be sought by way of a condition, to be approved before the submission of any reserved matters application.
- 7.66 The proposal is submitted in outline only (with all matters other than access reserved for future consideration) at this stage. A full assessment of the design of the units, the streetscape and other detailed design elements will take place at reserved matters stage. It is recommended that the parameter plan be conditioned as part of any outline consent which shall secure the location of built form, the areas of open space, orchard, the pedestrian links, and the planting buffer. Moreover, conditions are also recommended to require full details of landscaping/planting and materials at the appropriate trigger point to ensure the scheme is of a high quality.
- 7.67 Overall, it is considered that the outline scheme has been designed to ensure high quality development is delivered at the future stages of the development. Subject to the imposition of conditions, it is therefore considered that the design is acceptable.

Residential Amenity

- 7.68 Policy DM 14 of the Local Plan provided general development criteria and requires that development does not result in significant harm to amenity. Paragraph 130 of the NPPF states that decisions should ensure high standards of amenity for existing and future users.
- 7.69 As a rule, 21m is considered sufficient to prevent a significant loss of amenity relating to daylight/sunlight, visual intrusion to outlook and privacy. 11m is generally considered appropriate for side/flank to rear relationships. The submitted details are indicative at this stage, and full details of the design of the dwellings, including floor plans and elevations will be sought at the reserved matters stage.

- 7.70 There are existing neighbouring properties to the west, north, and north-east of the site, comprising residential dwellings on The Callaways, The Tracies and the south side of the High Street A2.
- 7.71 In terms of the dwellings to the west, there is an indicative separation distance of between 6m-23m between the indicative plots and the existing dwellings on The Tracies; and indicative separation distance of between 17m-39m to the north, and indicative separation distance of between 16m-28m to the north-east. Whilst there are instances where the indicative distances are below the standard requirements, it is considered that the scheme can be designed to ensure no significant harm to neighbouring properties, for example limiting development to single storey or 1 ½ storeys in the north-west part of the site and ensuring the orientation and layout of the dwellings prevents direct overlooking to neighbours. This can be controlled at the reserved matters stage.
- 7.72 The proposal would see an uplift in vehicle movements regarding the residential development. However, the upturn for 46 units would not be considered so significant as to result in unacceptable noise implications to residents. Tree planting along the access road into the site will assist with noise mitigation.
- 7.73 The Environmental Health Officer has commented on the proposal and the submitted Noise Assessment Report and raised no objection to the proposed development regarding noise.
- 7.74 The construction period of a development is not material to the acceptability of a proposal. However, details of dust management, construction hours, and construction management plan could be secured via condition to ensure that development mitigates impacts during a construction period.
- 7.75 In terms of future residential amenity, the indicative layout has been designed to achieve rear to rear alignment that would allow 21m which is the recommended distance to ensure sufficient privacy, or in places that a closer relationship exists the orientation of the properties reduces the overall overlooking with 11m achieved between side to rear alignment. Each dwelling would have a suitable amenity space, with the residential flats having access to the open space within the site.
- 7.76 Overall, it is that the proposal can be designed to preserve existing amenity levels and ensure there is an acceptable level of amenity for future occupiers. The proposal is considered compliant with local and national policy regarding amenity.

Heritage

- 7.77 Policy CP 8 of the Local Plan seeks to ensure that developments will sustain and enhance the significance of designated and non-designated heritage assets. Policy DM 33 of the Local Plan states that development must setting of the listed building and its special/architectural interest are preserved.
- 7.78 Policy DM 33 of the Local Plan states that development affecting the setting of, or views into and out of a Conservation Area, will preserve or enhance all features that contribute positively to the area's special character or appearance.

7.79 Paragraph 194 of the National Planning Policy Framework (NPPF) states that:

'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contributions made by their setting. The level of details should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance...'

7.80 Paragraph 195 of the National Planning Policy Framework states that:

'Local authorities should identify and assess the particular significance of any heritage asset that maybe affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal'.

7.81 Paragraph 199 of the National Planning Policy Framework states that in considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). The weight is irrespective of whether the harm is substantial, total loss, less than substantial.

7.82 The applicant has provided a Heritage Statement within the application pack. The assessment identifies the relevant assets and provides the relevant descriptions of the assets in accord with the requirements of the National Planning Policy Framework. The application site is not subject to any designated heritage buildings and is not within a Conservation Area. The application site lies to the southeast of the Newington High Street Conservation Area, to the northeast of the Newington Manor Conservation Area.

7.83 There are listed buildings close to the application site: Grade II listed milestone at 89 High Street is situated 13m to the north of the site entrance (on the opposite side of the A2); and Grade II Lion House is situated 45m to the north-west (from north-west corner of site).

7.84 There is no intervisibility between Newington Manor Conservation Area and the proposed development area (PDA), and very limited intervisibility between Newington High Street Conservation Area, Lion House and the PDA, due to a combination of intervening modern development, tree cover and topography.

7.85 The grade II listed milestone lies almost directly adjacent the proposed access to the application site and the alteration to the existing access to the agricultural land would result in a change to its setting.

7.86 The Conservation Officers notes that the proposal may conflict with CP8, in that it will inevitably result in more vehicle movements and associated negative impacts to the at-risk High Street Conservation Area, making it more difficult to reverse the existing harm there. CP8 states inter alia that *'Development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and identity...'*. However, with

regards to the NPPF terms the proposal is one which it would be very difficult to sustain a heritage-related reason for refusal given the low-end less than substantial harm level impact we are looking at here and the prospect of up to 46 new homes (with some affordable homes provision) making a material impact to the housing delivery supply.

- 7.87 The Conservation Officer comments that the proposed area for the new housing would round off the southeast built up area to the village of Newington without materially impacting on the setting of any heritage assets and potentially resulting in landscape and biodiversity gains. The Conservation Officer has questioned the appropriateness of the indicative layout and indicative architectural approach for a site which is on the edge of the village. Taking into account the more village-like character of Newington and the fact that the site would form a new edge to open countryside, the Conservation Officer advises a less dense, less urban form of development would seem more appropriate.
- 7.88 The Conservation Officer notes that this should not prevent an on-balance support of the proposal, but a development brief would be appropriate to include as a requirement of any consent to ensure that the physical context of the site is given more, and due consideration in providing the framework for a subsequent reserved matters submission.
- 7.89 The Conservation Officer concludes that there would not be adequate and defensible grounds to sustain a heritage related reason for refusal.
- 7.90 Paragraph 202 of the National Planning Policy Framework states that:

‘Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use’.

- 7.91 Whilst a degree of concern with identifying the proposal as harmful to the setting of the High Street Conservation Area for completeness the impact versus public benefits will be considered in the balance. The Officer has made comment on the public benefits. However, this is a matter for committee to consider as the benefits do not pertain to heritage matters. The balance will be considered later in this report.

Biodiversity

- 7.92 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.
- 7.93 The application is also supported by a Preliminary Ecological Appraisal prepared by the Ecology Partnership. This has been undertaken to understand any ecological

constraints, any mitigation measures that may be required, any additional survey work that may be required and to identify opportunities for ecological enhancement.

- 7.94 The site is dominated by semi-improved grassland with some areas of scrub and tall ruderal vegetation, together with buildings, bare ground, and hardstanding. Such habitats are of low ecological value, with only hedgerows considered to form an important ecological feature. The existing vegetation at site boundaries are to be retained as part of the proposals.
- 7.95 The site generally offers limited opportunities for protected species, with evidence limited to small numbers of foraging and commuting common bat species, likely bat exploratory activity within a single building, a moderate number of reptiles and common bird species. Appropriate mitigation measures will therefore be implemented to safeguard fauna during relevant site works. Long-term opportunities will be maintained, if not enhanced, under the proposals through new landscape planting and provision of nest boxes.
- 7.96 The proposals present the opportunity to secure a number of biodiversity net gains, including additional native tree planting, new roosting opportunities for bats, and more diverse nesting habitats for birds. On this basis, it is considered that a biodiversity net gain of 37.55% would be achieved under the proposals, substantially above the 10% level indicated by emerging policy and legislation. It is recommended that this be secured by condition if Members are minded permitting the scheme.
- 7.97 The application is in outline at this stage; however, the supporting document suggests that the scheme will not have an adverse impact on biodiversity or ecology subject to mitigation. It is recommended that the conditions imposed require further evidence at reserved matters stage and via submission of details applications to demonstrate compliance with the relevant mitigation and enhancement measures. Moreover, it is recommended that the SAMMs tariff also be secured via legal agreement.
- 7.98 Comments are awaited from KCC Biodiversity regarding the submitted ecological information, and these comments and condition wording will be confirmed via tabled update or at the committee meeting.
- 7.99 With regard to the potential implications for the SPA and the requirements of the Habitat Regulations. As Members will be aware, the Council seeks developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA). The application site is within 6km of the SPA, situated approximately 3km from the closest part of the SPA and as such the Council seeks a mitigation contribution of £275.88 for each new dwelling. The proposal will result in a net gain of 45 dwellings which will result in a financial contribution of **£12,414.60** which will be secured via a S.106 legal agreement. As a result, and appropriate assessment will be undertaken below.

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

- 7.100 This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale Special Protection

Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

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

7.102 Due to the scale of development, there is limited scope to provide on-site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

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

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

7.105 NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

7.106 In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

Sustainability

7.107 The supporting information sets out the applicant's approach to addressing Climate change which includes a commitment to ensure that all dwellings achieve a 50% reduction in CO₂ and that each dwelling will have an Electric Vehicle Charging point. This will be achieved through the proposed house designs and adopting a fabric first approach, combined with Air Source Heat Pumps to provide heating and hot water will deliver the required CO₂ reductions by at least 50%.

7.108 To ensure the reserved matters scheme meets this, an energy and sustainability statement will be sought with the reserved matters application to demonstrate that the layout, orientation, and design has been considered to minimise energy consumption. It is considered that the parameter plans have been designed with sufficient flexibility to ensure that the detailed design can accord with the relevant policies. It is also recommended that a condition be imposed requiring details of the reduction in CO₂ emissions beyond the requirements of the Building Regulations. The % reduction will be established at reserved matters stage. It is also recommended that a minimum water efficiency of 110 litres per person per day is also secured by condition.

Air Quality

7.109 Policy SP 5 of the Local Plan criteria 12 states that development will be consistent with local air quality action plans for Newington High Street and bring forward proposal for mitigation of adverse impacts. Swale Borough Council Air Quality Action Plan (2018 – 2022) sets out local AQAM Measures.

7.110 Policy DM 6 managing transport demand and impact criteria (d) states that:

“integrate air quality management and environmental quality into the location and design of, and access to, development and, in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree especially taking into account the cumulative impact of development schemes within or likely to impact on Air Quality Management Areas”.

7.111 Paragraph 186 of the National Planning Policy Framework states that:

“Planning Policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan”.

7.112 The locally focused measures within the Air Quality Action Plan identify those measures to be introduced into individual AQMAs are those which target:

- Initiatives that inform and protect local residents,

- Smooth traffic flows causing less congestion of all vehicles through the AQMAs,
- Access to cleaner alternative transport for residents and business.

7.113 The plan identifies local focussed measures will be implemented through 'local' measures set out in table 5.2. The table indicates for Newington these would consist of Local school and business travel plans and promoting travel alternatives.

7.114 The Newington Air Quality Management Area (AQMA) is located to the north of the site, and the vehicular access to the site would join the AQMA. The AQMA is located along the A2 High Street Newington. There is also a AQMA at Keycol Hill further on the A2 to the east. Further along the A2 to the west Medway Council has also identified an AQMA on Rainham High Street.

7.115 An Air Quality Assessment was provided by the applicant. The assessment considers the development on an individual and a cumulative basis. In regard to the vehicle emission impact, when assessing the development in isolation would have a negligible impact to air quality with some receptors seeing a moderate impact. The impacts of the development on its own result in a less than a 1% change at existing receptors. The proposed development's impact in isolation would not therefore be considered to have significant harm to human health.

7.116 The Councils Environmental Health Officer raised concerns with the submitted information regarding cumulative impacts and outlined those other sites in Newington were identifying a moderate or substantial impacts when taking into account the cumulative impacts.

7.117 As a result of the cumulative impacts of all committed development and the proposed development an Emissions Mitigation Assessment was undertaken. A damage cost was undertaken including NO_x, PM₁₀, and PM_{2.5}. The damage cost (without mitigation) associated with the additional vehicle movements associated with the development over a 5-year period was considered to amount to **£22,022.00**

7.118 The applicant outlined how the damage cost mitigation of the **£22,022.00** would be spent and advised this would be the provision of an annual bus pass (for route 326/327 between Sittingbourne and Chatham, at a cost of £595 per pass) for every household within the development as part of the site's Travel Plan; the cost of which (£27,370) would exceed the damage cost.

7.119 The submitted air quality assessment has set out additional mitigation, via a financial contribution over and above the damage cost towards the establishment of a cycle hire scheme for the village, similar to that which was recently introduced in Faversham. The supporting information sets out the details of this, and an offer to each household a three-year Network Railcard.

"1.3.2 Initial engagement has been undertaken with the provider of the Faversham scheme (APP-BIKE), and it is deemed feasible to provide five bicycles (comprising a mixture of e-bikes and traditional cycles) within the proposed development. The applicant is willing to offer each household two years' free use of the scheme (at a cost

of £6,440), with all ongoing management and maintenance costs to be borne by APP-BIKE.

1.3.3 It is further proposed to offer each household a three-year Network Railcard (at a cost of £4,140), which entitles recipients to one-third off the price of many rail fares within London and the Southeast.”

7.120 The Councils Environmental Health Officer has reviewed the submitted mitigation measures, and notes that the applicant has provided a good package of measures for the number of houses being provided. These include subsidised public transport ticket options and an E-bike scheme which are both deemed suitable for the scale and location of this development. These too can provide some long-term benefits to the area.

7.121 The Councils Environmental Health Officer has set out that alternative mitigation measures need to be written into the S.106 agreement, to ensure that the measures are deliverable, and any unspent contribution (or passes not taken up) are redistributed to another form of mitigation, to ensure contribution is spent appropriately. This will be secured via the section 106 agreement and incorporated into the sites Travel Plan to ensure measures are monitored, managed appropriately, and reported to the Local Authority.

7.122 It should be noted that all dwellings would have the provision of an electrical vehicle charging point, but these are not considered as part of the mitigation package.

7.123 The University of Kent responded to the application as per a request from the Parish Council. The University of Kent does not agree with the conclusion of the Air Quality Assessment considering that the model used in the assessment under predicts the NO₂. The assessment also considers that the proposed mitigation measures to be vague and weak. The proposal individually is not considered to have an individually a significantly negative impact. The concerns primarily derive from a cumulative impact with other committed development.

7.124 Paragraph 186 of the National Planning Policy Framework does make it clear that opportunities to improve or mitigate impacts should be considered at the plan making stage. The NPPF encourages the need for opportunities to be considered at plan making stage to ensure a strategic approach. Paragraph 186 state individual application is consistent with the local air quality management plan.

7.125 Considering the Environmental Health Officers comments, full details of mitigation measures will be controlled by the S.106 agreement, with indicative measures comprising, an annual pass for the bus, provision of network rail vouchers and contributions towards an electric bike scheme, which are considered appropriate given the modest scale of development being proposed. The proposal would be considered to meet with the Local Air Quality Management Plan.

7.126 The proposal is considered acceptable in this regard subject to securing of mitigation package.

Flooding and Drainage

- 7.127 Policy DM 21 of the Local Plan seeks to ensure that development proposals will demonstrate that the most suitable means of drainage will be achieved on the site and Flood Risk Assessments will be provided where a development is at risk of flooding.
- 7.128 The application site is in Flood Zone 1 which is an area at low risk of flooding. A Flood Risk Assessment was provided as part of the application. The risk from rivers and sea was considered negligible.
- 7.129 KCC Drainage outline they agree in principle to the proposed development. The current surface water strategy proposes that surface water will be managed through a series of piped networks and permeable paving prior to discharging into an infiltration basin to the east of the site.
- 7.130 The submitted information for the outline scheme has been presented as a high level strategy and therefore the comments by KCC Flood and Water Management outline areas that will need to be addressed when finalising a detailed drainage scheme which will be sought via condition. This includes the need for further infiltration/soakage tests; comments regarding ownership boundaries; underground services routed outside of permeable paving; grading levels of swales and basins; depth of basins/ponds.
- 7.131 KCC have advised that full consideration is given to the landscaping of the basins and promotion of multi-functional design, as the current basin arrangement may not maximise the open space and biodiversity opportunities available. This is an element that would be secured at reserved matter stage.
- 7.132 Southern Water raise no objection subject to a condition regarding sewerage network reinforcement and an informative regarding foul drainage.
- 7.133 Therefore, it is considered the proposed development would comply with policy DM21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and paragraph 165 of the NPPF.

Minerals (Brickearth)

- 7.134 The application sites fall within a safeguarded mineral in the area, being Brickearth. The mineral resource is safeguarded by Policy CSM 5: Land-won Mineral Safeguarding of the Kent Minerals and Waste Local Plan 2013-30. As such, KCC Minerals & Waste requested that the application should include a Minerals Assessment (MA) to determine if the safeguarded mineral deposit is being needlessly sterilised, and if not whether an exemption to mineral safeguarding pursuant to Policy DM 7: Safeguarding Mineral Resources of the Kent Minerals and Waste Local Plan 2013-30 can be invoked.
- 7.135 The submitted Minerals Assessment (MA) sets out there is a high probability that a usable and viable Brickearth deposit is present at the site, and the local Brickearth user in the area (Weinberger Ltd). Weinberger Ltd stated that they were interested in the site as a source of Brickearth and outlined that further testing would be required.
- 7.136 KCC Minerals and Waste advised that if the further analysis does conclude that the material is suitable for brick manufacture and that prior extraction is viable and the

applicant intends to do this as part of their proposals, the County Council would have no objection to the application on grounds of Policy CSM: 5 Land-won Mineral Safeguarding, of the Kent Minerals and Waste Local Plan 2013-30 (as Early Partially Reviewed 2020).

7.137 In response, the applicants proposed a Grampian condition to enable further mineral testing to be undertaken, with the resource to be extracted (if viable) before any development commenced on site. This approach has been discussed with KCC Minerals and Waste, who have advised that given the outline nature of the planning application it is considered that a Grampian condition is acceptable in this instance, as it does not dilute the safeguarding presumption.

7.138 A Grampian condition has been discussed between the case officer and KCC Minerals and Waste which would allow for further testing of the mineral to determine whether this is viable or not. If a viable deposit is found, full extraction of the deposit would be required before any development or prior to development permitted operations occur on site. This is condition (1).

7.139 A condition is also included that would seek details of a Brick Earth Extraction Method Statement to ensure there would be no adverse impacts on residents, or the highway network. This is condition (18).

Archaeology

7.140 Part of the application site is located within an area of Archaeological Potential; this comprises land to the south of the High Street (A2) up to approximately 20m into the site. The wider local area has been subject to archaeological finds. The application has been supported by an Archaeological Desk based Assessment by SWAT Archaeology (July 2021) which has been reviewed by KCC Archaeology.

7.141 The supporting document recognises the high potential in Newington for remains of Iron Age and Roman date. KCC Archaeology conclude that there is potential for significant archaeological remains to occur on this site and to be affected by proposed development. They are satisfied that this can be addressed through a condition for archaeological evaluation with subsequent mitigation that may include preservation in situ of archaeology where appropriate. Given the illustrative layout this could be achieved through design and layout of open space. The evaluation should be timed to be undertaken ahead of any reserved matters application so that archaeological measures can be taken account of in development design. A condition is recommended to enable a staged approach to evaluation and mitigation of the site's potential impacts on archaeology" (See condition 7).

Affordable Housing

7.142 Policy DM 8 of the Local Plan identifies that for development proposals of 11 or more dwellings there will be a need to provide affordable housing. The policy requires the provision of 40% affordable units in rural areas. The size, tenure and type of affordable housing would be provided in accord with the needs of the area.

- 7.143 The proposal would provide a policy compliant on-site provision of 40% which would equate to 18 units. At this stage the housing mix, and layout of units are a reserved matter, and therefore any reserved matters application would seek good social integration for affordable units within the site, and size of units to accord with local housing needs.
- 7.144 In accordance with Local plan policy CP3, a good choice of housing types should be provided, including as affordable, to ensure the delivery of a reasonable and proportionate mix to the open market homes, including larger 4-and 5-bedroom houses were provided on development sites. The Affordable Housing Manager has commented on the submitted indicative housing mix for affordable units and suggested a more comparable housing mix to the policy requirements with 2 x 1 bed units; 3 x 2 bed units; 10 x 3 bed units and 3 x 4+ bed units. An affordable housing mix closer to this will be sought at reserved matter stage.
- 7.145 Paragraph 7.3.8 of the Local Plan provides guidance for the tenure associated with the affordable housing requirement which seeks an indicative target of 90% affordable/social rent and 10% intermediate products.
- 7.146 The Housing Officer has indicated that due to a Written Ministerial Statement and amendments to the National Planning Policy Guidance a minimum of 25% of all affordable housing units should be provided as First Homes. When taking account of the new First Homes requirements, the remaining 75% of s106 affordable housing should be secured as social rented.
- 7.147 The provision of a 25% First Homes and 75% socially rented tenure was sought in line with the emerging government guidance. This would result in a split of 4 First Home units and 14 socially rented units.

Developer Contributions

- 7.148 Policy CP 6 and IMP 1 seek to deliver infrastructure requirements and other facilities to ensure the needs of the Borough are met.
- 7.149 Kent County Council have outlined the contributions required in association with the development (Members will note the consultee response from KCC above). The contributions would be put towards primary, secondary, and special education needs. Further contributions would be sought for community learning, youth services, library book stock, social care, and waste.
- 7.150 Kent County Council Highways have requested a contribution of **£63,248.64** towards the improvements on the Key Street roundabout. The site is located close to this junction in the Borough and would work towards improvement works. Kent County Council Public Rights of Way have requested contribution of **£10,764.00** to improvements to Public Footpath ZR59 (to provide a 1.5m wide all-weather surface).
- 7.151 Kent and Medway Clinical Commissioning Group also made comment noting that the proposal would generate a requirement for an additional 118 patients. The comments note that the proposal would fall within the current practice boundaries of several surgeries in the surrounds of Newington. The proposal would need to contribute due to

the limit capacity within existing general practices. The total amount requested would be **£42,372.00**

7.152 No comments have been received from Open Space team. However, based on the Open Spaces and Play Area Strategy 2018 – 2022 a contribution would likely to be sought based on £593.00 per dwelling on formal sports and £446.00 per dwelling for play and fitness. The total would amount to **£46,755.00**

7.153 Further, to the above Swale would require contribution towards the provision of wheelie bins of approximately. Administration/monitoring fees, SPA mitigation as referenced above, and Air Quality Damage Cost Calculations will be sought via the S.106 agreement.

7.154 The requested contributions are outlined below, given the outline nature of the scheme the per dwelling figure will be used for the purposes of the S.106 agreement.

7.155 KCC Primary Education	(£6800 per house) & (£1700 per 'applicable' flat)
KCC Secondary Education	(£5176 per house) & (£1,294.00 per 'applicable' flat)
KCC Secondary Land	(£2,635.73 per house) & (£658.93 per 'applicable' flat)
KCC Special Education	(£1,051.82 per house) & (£262.97 per 'applicable' flat)
KCC Community Learning	(£16.42 per dwelling)
KCC Youth Service	(£65.50 per dwelling)
KCC Library Bookstock	(£55.45 per dwelling)
KCC Social Care	(£146.88 per dwelling)
KCC Waste	(£183.67 per dwelling)
KCC Highways	(request of £63,248.64)
KCC PROW	(request of £10,764)
NHS CCG	(request of £42,372)
Air Quality Mitigation (Damage Cost)	(£22,022)
SBC Formal Sports	(£593.00 per dwelling)
SBC Play	(£446.00 per dwelling)
SBC refuse/bins	£109.40 per house and £196.98 per flat
SAMMS	£275.88 per dwelling
Air Quality Mitigation (Additional measures)	
Administration and Monitoring (TBC)	

7.156 The contribution per dwelling equates to approximately **£19,025.29**

7.157 The contributions would be secured via section 106 agreement and securement of an appropriate monitoring fee.

Titled Balance

7.158 As identified above paragraph 11 Plans and decisions should apply a presumption in favour of sustainable development... For decision making this means: ...d) where there are no relevant development plan policies, or the policies which are most important for determining the development are out of date, granting planning permission unless:

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

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

7.159 Swale Borough Council's Local Plan is out of date and as per footnote 8 of paragraph 11 does not have a 5-year housing supply. The site is also not located in a protected area as identified by paragraph 11. The proposal must be considered considering the titled balance.

7.160 The proposal site is located outside of the built environment and lies adjacent to a settlement which has been identified for development. The site is not totally removed from the public transport links. The development would support the provision of infrastructure to allow pedestrians to access these amenities. The development would support the provision of pedestrian links to access existing PROW and wider amenities in Newington. The proposal would include a contribution to improve the surfacing of Public Footpath ZR61 (to provide a 1.5m wide all-weather surface).

7.161 The proposal would as identified above result in some low-end less than substantial harm to the setting of the High Street Conservation Area. Paragraph 202 of the NPPF states:

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

7.162 The site is not isolated as it is located adjacent to existing residential dwellings. The land is not a designated landscape either nationally or at the local level.

7.163 Further, the proposal would provide additional housing addressing an identified need in the borough, including the provision of affordable housing.

7.164 The proposal would also result in some localised landscape harm in seeing the loss of an open field which sits outside of the defined development boundary, and from changes to localised views from immediate public footpaths. However, as above the proposal would see additional landscaping to an area and provide a landscape buffer to a new edge in Newington. The site is not isolated as it is located adjacent to existing residential dwellings. The land is not a designated landscape either nationally or at the local level.

7.165 There would be other benefits from the scheme including the 37% Net Gain in Biodiversity and aim to achieve 50% reduction in CO2.

7.166 The limited localised harm to the landscape and setting of the Conservation Area is not considered significant. In applying the titled balance, the proposal is considered to tip the balance in favour of approval.

8. CONCLUSION

8.1 The proposed development would result in new residential development outside the defined settlement boundary of Newington. The proposed development would result in the loss of a small section of agricultural land and the development of greenfield land.

The proposal would see a degree of localised landscape harm and impact to the setting of the High Street Conservation Area.

- 8.2 However, the Local Authority cannot demonstrate a 5-year housing land supply. The titled balance is therefore applicable to the site as is not located within a protected area nor within an identified local level of landscape importance.
- 8.3 The proposal would provide additional housing, including the provision of 18 on-site affordable units in the Borough adjacent to a settlement boundary on the development hierarchy strategy. There would be modest positive benefits of improving the economic and social vitality of the area (during construction and through the introduction of new residents).
- 8.4 The site is locational sustainable, being within walking distance to the facilities and services within Newington, and with walking distance to public transport facilities (bus and train station) that serve Newington. There would be other benefits from the scheme including the 37% Net Gain in Biodiversity and aim to achieve 50% reduction in CO2. The proposal would be considered to have a moderate weight in meeting an environmental objective.
- 8.5 The proposal would include a contribution to improve the surfacing of Public Footpath ZR61 (to provide a 1.5m wide all-weather surface), which will enhance pedestrian connectivity within Newington.
- 8.6 The proposal is considered on balance acceptable and is recommended for approval.

9. RECOMMENDATION

Grant subject to conditions and Section 106 agreement with delegated authority to amend the wording of the s106 agreement and conditions as may reasonably be required.

CONDITIONS to include

Grampian Conditions

- 1) No development or prior to development permitted operations, shall occur on site until it is fully concluded that prior extraction of the Brickearth mineral is either:
 - A. unviable or;
 - B. further testing of the mineral demonstrates it is not usable or;
 - C. full prior extraction of the viable deposits of the Brickearth has been completed to the satisfaction of the planning authority

The above criteria a.to b. to be agreed as appropriate, in writing, with the Local Planning Authority (who shall consult Kent County Council)

The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the safeguarded mineral is not sterilised

- 2) No dwellings shall be occupied, until the Key Street highway improvement contract has been awarded.

Reason: In the interest of highways capacity

Related to outline nature and requirements of the RMA

- 3) Details relating to the landscaping, layout, scale and appearance of the proposed dwelling(s) shall be submitted to and approved by the Local Planning Authority before any development is commenced.

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

- 4) Application for approval of reserved matters referred to in Condition (3) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

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

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

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

- 6) Prior to the submission of a reserved matters application, a design code shall be submitted to and approved in writing by the Local Planning Authority. The design code shall be based upon the Site Parameter Plan drawing 23254C/150_A; and Design and Access Statement, and shall include the following –

- A local study (regarding urban design, landscape character and architecture).
The local study will cover.
 - i. Urban form,
 - ii. Block pattern and size,
 - iii. Development to space relationships, such as building heights to street widths,
 - iv. Open space typologies,
 - v. Built response to topography,
 - vi. Local Landscape Characters at national and Local levels,
 - vii. Local habitats and species as well as patterns of vegetation,
 - viii. Boundary treatments,
 - ix. Architectural vernacular and details
- A design strategy for buildings, to include housing mix, density and massing, architectural treatment, the use of feature buildings in key locations, principles for the use of external materials, boundary treatments, and provision of car parking. The masterplan shall be based on a design response to the local study.
- Principles for establishing character areas
- Principles for road hierarchy, pedestrian and cycle connections, including the alignment, width, lighting and surface materials to be used
- A strategy for street tree planting

- Principles for the layout to accommodate and respond to existing landscape features within the site.
- Design of the public realm, including principles for the design and layout of public open space, areas for play, lighting, street furniture and sustainable urban drainage
- A strategy to provide open space, footpath and cycle linkages.

The reserved matters shall be designed to accord with the approved Design Code.

Reason: In the interests of providing a high-quality layout and design for the development.

- 7) A) Before the submission of reserved matters, the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority.

B) Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording with a specification and timetable which has been submitted to and approved by the local planning authority.

C) Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:

- a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
- b. an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;
- c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

D) The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

- 8) The development hereby permitted shall be carried out in accordance with the following approved drawings, documents and mitigation set out within:

Site Location Plan (23254C/25_D); Proposed Site Access (15809-H-01 Rev P4); Parameter Plan (23254C/150_A); Transport Statement (dated September 2021) and Addendum (dated March 2022); Landscape and Visual Appraisal (dated September 2021); Planning Statement (dated October 2021), Design & Access Statement (dated October 2021); Preliminary Ecological Appraisal (dated October 2021); Noise Assessment (dated September 2021); Flood Risk Assessment (dated August 2021); Arboricultural Report (dated September 2021); Air Quality Assessment (dated August 2021, Addendum (dated January 2022) and Air

Quality Mitigation Statement (dated July 2022); Minerals Resource Assessment (dated August 2022).

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

- 9) The development hereby permitted shall consist of no more than 46 residential units (Use Class C3) and the detailed design shall strictly accord with the following Parameter Plan 23254C/150_A

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

- 10) An accommodation schedule shall be provided with the reserved matters application. The accommodation schedule shall demonstrate a range of housing types (including both market and affordable units) are provided which reflects the findings of the current Strategic Housing Market Assessment or similar needs assessment (or most recent standard) as well as making provision for wheelchair adaptable dwellings and wheelchair user dwellings as part of the housing mix.

Reason: To ensure there is a mix and size of dwellings to meet the future needs of households

- 11) The details submitted pursuant to condition (3) shall show adequate land, reserved for the parking or garaging of cars; suitable storage for cycle parking; and electric vehicle charging provision (in accordance with the currently adopted Kent County Council Vehicle Parking Standards and Swale Parking SPD or most recent relevant standards) which land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not shall be carried out on such land (other than the erection of a private garage or garages) or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted. All Electric Vehicle chargers provided must be to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wifi connection). 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: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users, and interests of air quality.

- 12) The development shall be completed strictly in accordance with details in the form of cross-sectional drawings through the site showing proposed site levels and finished floor levels which shall have been submitted to and approved in writing by the Local Planning Authority as part of the reserved matters application.

Reason: In order to secure a satisfactory form of development having regard to the sloping nature of the site.

- 13) With the first reserved matters application, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the Local Planning Authority. This will be in general accordance with the recommendations in section 6.2 of the Ecological Appraisal (Aspect Ecology, October 2021) unless

otherwise agreed in writing by the Local Planning Authority. The scheme shall achieve a biodiversity net gain of at least 37% against the existing site conditions. The approved details will be implemented and thereafter retained in perpetuity.

Reason: to ensure appropriate ecological protection and enhancement is undertaken along with ensuring that biodiversity gains are delivered for the enhancement and improvements of habitats.

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

Reason: In the interests of water conservation and sustainability.

- 15) The details submitted pursuant to Condition (3) above shall demonstrate how principles relating to minimising the opportunities for crime and anti-social behaviour have been incorporated in the layout, landscaping and building design.

Reason: In the interests of minimising the opportunities for crime and anti-social behaviour.

- 16) The details submitted pursuant to Condition (3) above shall show dwellings extending to no more than 2 storeys in height.

Reason: In the interests of complementing the character and appearance of existing development in the vicinity of the site.

- 17) The reserved matters application shall include the following reports along with all other drawings and documents as required for validation purposes:
- Tree Protection Plan
 - Design and Access Statement
 - Landscaping Design Statement
 - Landscaping and Visual Impact Assessment; and
 - Energy and Sustainability Statement

Reason: In order that the Council is satisfied with the details of the proposed development and in the interest of proper planning

Pre-Commencement

- 18) Prior to the commencement of the development, a Brick Earth Extraction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The extraction of brick earth shall then be carried out in accordance with the approved Brick Earth Extraction Method Statement and in line with IAMQ's 2016 Mineral Dust Guidance which shall include mitigation measures to minimise any potential impacts and shall include the following where relevant:
- Routing of lorries between the site and the brickworks
 - An indicative programme for carrying out the works
 - Measures to minimise the production of dust from the site

- Measures to minimise noise (including vibration) generated by the extraction process to include the careful selection of machinery and use of noise mitigation barriers
- Maximum noise levels expected 1m from the affected facade of any residential unit adjacent to the site
- Measures to prevent the transfer of extraneous material onto the public highway
- The location and design of any site administration building or structure.

Reason: In the interests of residential and highway amenity.

- 19) 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) A site investigation (phase 2), based the phase 1 assessment to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - b) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (phase 2). 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. Any changes to these components require the express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.
 - c) A Verification Report shall be submitted upon completion of the works and 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: To ensure any contaminated land is adequately dealt with.

- 20) Prior to the commencement of the development 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 approved Statement shall be adhered to throughout the construction period. This shall include details relating to:
- (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
 - (ii) The loading and unloading and storage of plant and materials on site;
 - (iii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

- (iv) The control and suppression of dust and noise including arrangements to monitor dust emissions from the development site during the construction phase;
- (v) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
- (vi) Measures to control mud deposition off-site from vehicles leaving the site;
- (vii) The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
- (viii) The use if any of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site; and
- (ix) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking
- (x) Phasing of the development

Reason: In the interests of the amenities of the area

- 21) Prior to commencement of development, a detailed strategy for the control of noise and vibration during any piling activities shall be submitted to and approved by the Local Planning Authority and all measured approved shall be implemented throughout the construction phase.

Reason: In the interests of the amenities of the area

- 22) Prior to the commencement of the relevant part of the development, an ecological and landscape management plan, including mitigation measures during demolition and construction, long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas, shall be submitted to and approved in writing by the Local Planning Authority. The submitted report shall include:
- a) Preliminary Ecological Appraisal demonstrating the details of all features of ecological value on the site and setting out measures for their protection during construction works.
 - b) Detailed phase II roosting bats' and nesting birds' surveys
 - c) A detailed method statement for the removal or long-term management /eradication of invasive species on the site.
 - d) Details to protect the established vegetation from any damage that could be caused during demolition and construction. All works should be undertaken by a suitably qualified and experienced specialist contractor and should conform to current industry best practice, i.e. BS 3998: 2010 'Tree Work - Recommendations'. The details should ensure that existing commuting/foraging routes currently utilised by bats and other wildlife are maintained.
 - e) If more than one year passes between the most recent bat survey and the commencement of demolition and/or tree works, an update bat survey must be undertaken immediately prior to demolition or tree works by a licensed bat worker. Evidence that the survey has been undertaken shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of demolition and/or tree works.
 - f) Details from a suitably qualified ecologist specifying how the landscape features have been developed for biodiversity and ecological enhancement.
 - g) Details of management and maintenance regimes to ensure biodiversity and ecology is protected, including a schedule for seasonal maintenance of the

landscaping with appropriate support systems and health checking of planting to ensure it is performing as intended;

- h) The mitigation and enhancement should include, but is not limited to, the following:
- i. Native species
 - ii. Bird and bat sensitive lighting
 - iii. Artificial nesting and roosting sites (including bird and bat boxes)

Evidence that the ecological measures approved have been installed in accordance with the approved details should be submitted to and approved by the local planning authority prior to occupation of the relevant part of the development.

The development shall be carried out in accordance with the approved details and retained for the lifetime of the development.

Reason: To contribute to protecting and enhancing biodiversity, protect aviation and improving the aesthetic value of the development as well as resident's well-being.

- 23) Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment prepared by DHA dated August 2021 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

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

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

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

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

- 24) Submission of a Construction Management Plan before the commencement of any development on site to include the following:
- (a) Routing of construction and delivery vehicles to / from site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel

- (c) Timing of deliveries
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage

The development shall be carried out in accord with the approved Construction Management Plan at all times unless otherwise agreed in writing by the local planning authority (who shall consult Kent County Councils Highways).

Reason: In the interests of highway safety

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

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

- 26) Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mbps) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.

Reason: To provide high quality digital infrastructure in new developments as required by paragraph 114 NPPF.

Prior to above ground level works

- 27) No development beyond the construction of foundations shall take place until details in the form of samples of external finishing materials, including hard surfaces to be used in the construction of the development hereby approved 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.

- 28) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate the biodiversity net gains in as per Condition 13. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, lighting, bollards, street furniture (including waste bins), cycle linkages, wayfinding, permeability of all hard surfaces, materials, use of planting to provide privacy and defensible areas and an implementation programme. All new streets must be tree lined.

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

in writing with the Local Planning Authority.

The scheme of tree planting and 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.

Pre-Occupation

- 29) Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

Reason: In the interests of sewer network capacity

- 30) Prior to occupation, a lighting design plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter. No external lighting other than agreed subject to this condition shall be installed on site without the prior consent of the local planning authority.

Reason: In the interests of protected species.

- 31) 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 the suitable modelled operation of the drainage system where the system constructed is different to that 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.

- 32) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- 33) Prior to the occupation of any of the units hereby permitted the approved access as show on the approved plans including 15809-H-01 Revision P4 shall have been completed and brought into use and maintained as such thereafter.

Reason: In the interest of the local highway network.

- 34) Prior to first occupation of the development herby approved details of a motorbike inhibitor at the junction of the proposed pedestrian link with public footpath ZR61 shall be submitted to and approved in writing by the Local Planning Authority (in consultation with KCC Public Rights of Way). The inhibitor shall meet KCC specifications, and be sited within the development site at the boundary to restrict access to the public footpath. The approved details shall be implemented prior to first occupation of the development and maintained as such thereafter.

Reason: To protect pedestrian users of the footpath and prevent unauthorised (cycles and motorbikes) accessing to the footpath.

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

Reason: In the interests of visual amenity.

- 36) 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 amenity

- 37) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times :- Monday to Friday 0900 - 1700 hours (to include reasonable periods of reprieve) unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of amenity

INFORMATIVES

Southern Water: 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.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 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.

