

APPENDIX 1Application: 21/505722/OUT 128 High Street, Newington ME9 7JH

Proposal: Outline application for demolition of existing residential dwelling and erection of up to 46 residential dwellings, including affordable housing, with access from A2 High Street (Access only being sought).

Newington Parish Council objects to this application.

Our submission outlines our objections, referencing these to relevant reports (from Swale planning officers, SBC policy documents, planning inspectorate decisions and other applicable documents). We show how these material considerations are substantiated in SBC policy and the National Planning Policy Framework.

1 The location of the proposed development

128 High Street is located on the main A2; this property is within the defined built-up area of existing properties along the A2. The proposal is to demolish this house to provide access to the BMV farmland behind.

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

128 High Street is a semi-detached property. We note that the owner of 126, the other half of the pair that form the overall building, has expressed surprise and concern at the proposal – clearly no consultation from the developer. This proposal would mean the demolition of part of a building to provide access to the field behind.

A 2019 application for development behind 132 High Street was rejected and the subsequent appeal to the Planning Inspectorate dismissed (details below). NB 132 High Street is adjacent to this application; there is no number 130.

The access and proposed housing development is between the High Street and Newington Manor Conservation Areas.

The applicant is the same developer as for the Eden Meadow proposal which is pending decision. Eden Meadow is 225 metres to the East and the proposal (20/501475/FULL) has been reduced from 40 to 20 homes, to join the existing 9 homes in Eden Meadow built following a 2017 planning appeal decision. At the 2019 Design Review Panel and in the presentation at a January 2020 Newington Parish Council Planning Committee meeting attended by many local residents Esquire Developments made no secret of their ambition for an extensive development stretching from Eden Meadow to the village centre behind properties south of the A2. They define this as 'public consultation' in their planning statement.

We anticipate submitting additional comments when the additional reports requested by the planning officer have been added to the Midkent portal.

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2 Swale Borough Council and NPPF Policies relevant to this proposal

- It is not part of the existing Swale Borough Council Plan
- It is not included in the latest consultation exercise on the local plan
- It was not part of the 'call for sites' for the Strategic Housing Land Availability Assessment in October 2020
- The Swale Local Plan Panel on 29 October 2020 followed the officer recommendation *that no sites in Newington should be progressed for inclusion as allocations in the Local Plan Review*.

Therefore this application is contrary to Swale's policies and procedures. It is a premature application.

In the Local Plan, Policy ST 3 identified Newington as a Tier 4 Rural Local Service Centre with noted limitations to expansion, so the village was allocated a growth rate of 1.3%. Even in the 2017 edition of the Local Plan, the restrictions on growth were reiterated with the single exception of "Land North of the High Street".

The following facts emphasise the extent that Newington has already played in fulfilling the targets of the Local Plan: Total already built in Newington 2014 to now is 183 properties; for the target six years to date that is 206%

Since the Census in 2011 (population 2551 in 1089 household spaces; data from 2021 not yet available), this village has grown by 18%. (see appendix 1)

In reality: the village school has vacancies only in specific year groups; there is one convenience store, a public house and a joint pharmacy/post office; the GP surgery is not accepting new patients (extensively covered by recent media reports highlighting difficulties for Newington residents to obtain the services of the doctor locally by telephone or face-to-face); there is a limited weekday bus service, nothing on Sundays; one train per hour in each direction stops at Newington station. This was one reason for the Local Plan Panel October 2020 decision not to progress allocations in the local plan review. The applicant's documentation is misleading in places as it is out-of-date; eg referring to restaurants that closed several years ago

The Parish Council is sure that Members will understand the cumulative effect of this increase and that of the proposal for a further 46 homes.

This application is outside the built-up (see policies E6 RC3). The exception – *where a proposal is 'able to demonstrate that it would contribute to protecting and where appropriate enhancing the intrinsic value, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities'*.

does not apply.

This proposal does not enhance the countryside or the *vitality of the rural community*.

The proposal does not meet the definition of sustainable development in rural areas

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

It does not provide housing for agricultural workers on neighbouring land and so is contrary to the principle.

The land is not a 'brownfield' site; it is agricultural land, albeit not extensively farmed in recent years.

Policy DM31: Agricultural Land – confirms development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up areas.

Development on BMV will not be permitted unless:

1. The site is allocated
2. There is no alternative site on land of a lower grade than 3a
3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely significant losses of high-quality agricultural land

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3 The proposed development is outside the defined urban boundary of our village.

We give detail of three recent inspectorate decisions 2018-2021 near to the site of this application where dismissal of the appeals was due to the proposal being outside the defined built-up area. There is another inspectorate decision (2016) in Newington which we believe to be relevant and we quote also from the 2020 decision in a neighbouring village, dismissed on the same grounds.

The Eden Meadow development at Boyces Hill Newington, from the same applicant. This is 225 metres east of 128 High Street, also on the south side of the A2. (16/505861/OUT, for 9 dwellings) was rejected at the 2 February 2017 Swale Borough Council Planning Committee meeting on the advice of officers.

Extract from Officer report

- i. It is outside the defined urban boundaries of Newington
- ii. Newington is considered a less sustainable settlement (services, transport and access to employment)
- iii. There would be significant adverse impact on the landscape character, quality and value of the rural setting.
- iv. There would be significant, permanent and unnecessary loss of a large area of best and most versatile agricultural land.
- v. 'As such it is considered that the proposed development does not accord with the National Planning Policy Framework' (see report to 2 February meeting (10.1) for detail

Newington Parish Council believes this was an accurate and balanced report. The reasons for refusal, above, apply to the current proposal.

The subsequent Appeal (non-determination) was allowed. Decision date 31 March 2017 Appeal Ref: APP/V2255/W/16/3162806

7. The appeal site lies adjacent but outside the built-up area for Newington as defined in the "Swale Borough Local Plan 2008" (the LP). Saved Policy H2 states that residential development in the countryside will only be permitted where it meets one of the exceptions listed in Policies E6 and RC3. The provision of 9 open market dwellings does not fall within any of the exempted categories and consequently there would be conflict with the LP in this regard.

8. However, the LP is now time-expired and whilst this does not mean that it cannot carry weight, its policies need to be considered in relation to their consistency with the Framework.

The Local Plan, subsequently examined in summer 2017 and found to be sound is now valid and current; its policies apply fully. This application was not included in the recent Regulation 18 consultation.

The three most recent appeals to the planning inspectorate have been rejected on the grounds of being outside the urban boundary. (see: 132 High Street: PINS ref APP/V2255/W/20/3247555; 148 High Street: PINS ref APP/V2255/W/17/3185369; 6 Ellen's Place: PINS ref APP/V2255/W/20/3250073;

In each case the Inspector decisions were that any, then, deficit in Swale's current supply was not a reason to approve the applications.

a) Land to the rear of 132 High Street, Newington

NB 132 High Street is next door to this application; there is no 130 High Street

Land to the rear of 132 High Street, Newington ME9 7JH 19/500029/FULL proposed 4 bedroom detached dwelling

Decision date 25 January 2021 Appeal Ref: APP/V2255/W/20/3247555 19/500029/FULL

13. ... The development would have a significantly urbanising effect upon the site and would substantially change its character. This would result in a diminution of the rural character and appearance of the area.

14. I have been directed to a residential development known as Eden Meadow and the New Farm car sales/workshop site where those developments project further south than that of the appeal site. However, I have not been provided the full details of those developments and when they were granted planning

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permission. It may be that they predated the revised 2019 National Planning Policy Framework (the Framework) and the 2017 Local Plan. If so, those developments would have related to a different development plan context where different considerations may have applied. I do not consider that those developments would justify either setting aside the current applicable development plan policies or the proposed development at this appeal site.

15...I conclude that the proposed development would not be an appropriate location for a new dwelling having regard to the spatial strategy of the development plan. Furthermore, the proposed development would have a harmful effect upon the character and appearance of the countryside. The proposal would, therefore, conflict with Policies ST1, ST3, DM9 and DM14 of the Local Plan. These policies seek, amongst other matters, to resist development in the countryside and to conserve and enhance the countryside.

18. Paragraph 213 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The intrinsic character and beauty of the countryside is recognised by the Framework. Development in rural areas is not precluded but the Framework indicates that great weight should be given to the benefits of using suitable sites within settlements for homes and therefore supports the general thrust of the Local Plan in terms of the location of housing. The appeal site lies adjacent to the built-up area boundary close to services, facilities and public transport and is not constrained by land designations, design, highway, or neighbour living conditions concerns. However, it is nevertheless outside the built-up area and where such development would be harmful to the character, appearance, and wider amenity value of the countryside.

20. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reason given, the appeal should not be allowed

b) 148 High Street, Newington (2 appeals)

This is 80 metres east of 128 High Street, also on the south side of the A2.

An Appeal for 3 homes on a site, south side of the A2 at 148 High Street, Newington, was dismissed by the Planning Inspectorate.

Decision date 17 January 2018 Appeal Ref: APP/V2255/W/17/3185369 Application17/500946/FULL
4 ...the area in which permission is sought to construct three new dwellings lies beyond the settlement boundary. For planning purposes the site is therefore within the countryside.

6. Although the commercial activities to the east have encroached to a small degree into the area to the rear of the High Street, the remainder has retained its open, rural character. Any other existing buildings appear to be part of the agricultural activities that previously took place in the area and are typical of those that can be seen in the countryside. There is therefore a significant change of character between the development which fronts the High Street and the area to the south.

7. The largest of the proposed dwellings would be a clear incursion into the open, rural landscape and countryside to the south of the High Street.... the introduction of the proposal as a whole with its access road, garages, parking areas, gardens and associated residential paraphernalia, would significantly erode the open, rural character of the area.

8 ...Consequently, the development as a whole would represent an unacceptable incursion into the countryside which would be harmful to the area's open, rural character and appearance. This would be the case regardless of the precise details of the layout or design of the individual buildings.

9. I therefore conclude that the proposal would harm the character and appearance of the countryside, contrary to Policies ST3, CP3, CP4 and DM14 of the Local Plan, all of which seek to conserve and enhance the countryside.

10. Notwithstanding the fact that Newington is an accessible village with a significant range of services, the Local Plan has defined its built-up area boundary. The supporting text of Policy ST3 recognises that development opportunities within the village are limited for a variety of reasons, including poor air quality and the surrounding high quality agricultural land. Any residential development beyond the boundary established by the Local Plan would therefore conflict with the aim of providing homes in accordance with the Borough's identified and agreed settlement hierarchy.

15. I am aware that an Inspector granted planning permission for development of nine dwellings at Ellen's Place in March 2017. However, that scheme was assessed against different policies and when the Council was unable to demonstrate a five year housing land supply. The Inspector found that even though

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that scheme did not conform to the development plan, the adverse impacts did not significantly and demonstrably outweigh the benefits. The particular circumstances of that site and the policies which applied at the time therefore justified allowing the appeal.

A further appeal was also dismissed

Land rear of 148 High Street, Newington, ME9 7JH. Decision date 14 August 2020 Appeal Ref: APP/V2255/W/20/3245359 19/505596/FULL *“conversion of former agricultural barn to a dwelling house including elderly dependent relatives replacement structure, associated car parking and access driveway”*

6. Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states *“At locations in the countryside, outside the built-up areas boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities”*.

7. Given that the site’s location would be outside the built-up area boundary of Newington, the appeal site would not be an appropriate location for residential development.

9. ...The appeal site is situated within the open land to the south of the High Street and exhibits all the attributes of the countryside.

10. ...The development would have a significantly urbanising effect upon the site and would substantially change its character. It would result in a diminution of the rural character and appearance of the area and negatively impact upon the tranquillity and beauty of the countryside.

12. Furthermore, the proposed development would have a harmful effect upon the character and appearance of the countryside. The proposal would, therefore, conflict with Policies ST1, ST3, DM9 and DM14 of the Local Plan. These policies seek, amongst other matters, development to support the aims of sustainable development, adhere to the Council’s settlement strategy and to conserve and enhance the countryside.

17. At the heart of the National Planning Policy Framework (the Framework) is the presumption in favour of sustainable development.. Notwithstanding this, the appeal site lies outside the settlement boundary and is within the countryside, a location that would conflict with the aim of providing homes in accordance with the Borough’s identified and agreed settlement hierarchy. Furthermore, I have found that the proposal would harm the rural character and appearance of the countryside.

19. I, therefore, conclude that the adverse impacts would significantly and demonstrably outweigh the moderate benefits of the scheme when considered against development plan policies and the Framework read as a whole. Consequently, the presumption in favour of sustainable development does not apply in this case.

c) 6 Ellen’s Place, Boyces Hill, Newington

This is 270 metres east of 128 High Street, also on the south side of the A2.

6 Ellen’s Place, Boyces Hill, Newington, ME9 7JG 19/503203/FULL proposed erection of a chalet bungalow with detached garage; creation of new vehicular access and erection of a detached garage to serve no. 6.

Decision date 3 January 2021 Appeal Ref: APP/V2255/W/20/3250073

5. The new development referred to above, now named Eden Meadow, is a somewhat stark intrusion into the landscape, that was allowed on appeal. I have been supplied with a copy of the appeal decision notice; it is clear that the appeal was determined under earlier circumstances, in particular when the council was unable to demonstrate a 5-year supply of housing land to a significant extent, so that the Inspector decided that the development would contribute significantly in economic and social dimensions that outweighed the conflict with the development plan. I would add, though, that the Inspector stated that *“it would introduce a substantial and largely self-contained enclave of development which, in landscape terms, would have little resonance with the more conventional and established arrangements along High Street”*.

7. Policy ST3 of the Swale Borough Local Plan 2017 (the Local Plan) sets out the settlement hierarchy within the Borough. It is the fifth element of this policy that is pertinent in this case:

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"5. At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities". Policy DM9 sets out exceptions under which new dwellings will be permitted within the countryside, none of which are applicable here.

8. These policies clearly place stringent restraints on new residential development within the countryside. In spite of the recent development of Eden Meadow, which currently is very raw and may soften as any landscaping scheme evolves, the appeal site is clearly within the countryside. These policies were adopted in 2017, before that latest version of the National Planning Policy Framework (the Framework) was published by the government, but the 2019 version continues to support local plan policies that protect the countryside. Framework chapter 15 sets out policies for conserving and enhancing the natural environment. Within this, paragraph 170, part b) is apposite in relation to this case: "170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;" NB: This is retained in the July 2021 version of the NPPF at Para 174 (b).

9. In respect of providing for housing, Framework chapter 5 deals with delivering a sufficient supply of homes. Within this chapter, under the heading Rural housing, are paragraphs 77 and 78. These state, as relevant here, "In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs, ..."; and, "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services". As far as the appeal proposal is concerned, whilst it may be in a reasonably sustainable location to access shops, public transport and community facilities, there is no local need, particular to the area, that has been identified. Furthermore, it cannot be said to provide an opportunity for the village to grow and thrive, and it would not support local services to any material extent. The appeal site is not isolated, and therefore Framework paragraph 78 dealing with isolated homes is not relevant.

11. I should also mention that the council currently cannot demonstrate a 5-year housing land supply and the engagement of footnote 7 to Framework paragraph 11 should therefore be considered. However, the council has now been able to identify 4.6 years supply (as compared with the supply of 3.17 years quoted in the Inspector's decision that led to the Eden Meadow development), a shortfall of just 0.4 years.

Conclusions

20. I conclude that the proposed development would be contrary to Policy ST3 of the Swale Borough Local Plan 2017 in that, being outside the defined built-up area, it would harm the character, appearance, and intrinsic amenity value of the countryside.

d) Land to East of St Mary's View, Church Lane,

St Mary's View is off Church Lane, in the village centre, north of the A2

Land to East of St Mary's View, Church Lane, 15/509664/OUT 'Outline application for the erection of up to 26 residential dwellings with all matters reserved with the exception of access' planning application from November 2015, refused at Swale Borough Council Planning Committee in May 2016, decision notice July 2016, with the subsequent planning appeal dismissed in July 2016

The close proximity to this application makes the reasons for the inspector decision relevant:

Appeal Ref: APP/V2255/W/16/3157268 Decision date 6 March 2016 Application 15/509664/OUT
29. The site comes within the Iwade Arable Farmlands as identified by the Swale Landscape Character and Biodiversity Appraisal SPD. This area is characterised by very gently undulating rural landscapes that may traditionally have supported fruit growing. The SPD refers to the large arable/horticultural fields with regular field patterns and rectangular shapes predominating, and a sparse hedgerow pattern.

34. ...in my view the proposal would significantly harm the rural character and setting of Newington. This harm would not be mitigated by the landscape proposals. The proposal would therefore conflict with paragraph 17 of the National Planning Policy Framework, which amongst other matters states that regard should be had to the different roles and character of different areas, and that the intrinsic character and beauty of the countryside should be recognised.

36. I therefore conclude that the proposal would significantly harm the character and appearance of the surrounding area and would fail to comply with Local Plan policies E6 and E9. Loss of Agricultural Land

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37. The appellant acknowledges that the proposal would result in the loss of an area of BMV land. Policy DM31 of the emerging local plan sets out that development on BMV land will only be permitted when there is an overriding need that cannot be met on land within the built up area boundaries, unless the site is

43. At the heart of the Framework is a presumption in favour of sustainable development. There are three dimensions to sustainable development, social, economic and environmental. These roles should not be undertaken in isolation, because they are mutually dependent. In social terms the proposal would provide market and affordable housing, within walking distance of a primary school, shops, services and public transport.

44. Economically the proposal would provide employment during the construction period and would make a modest contribution towards household expenditure in the area. The developer contributions would provide mitigation against the adverse impacts of the proposal on local infrastructure and therefore are not an economic benefit of the proposal. In environmental terms, the proposal would result in the loss of BMV land, and would result in harm to the landscape and character of the area. Whilst the proposal includes mitigation measures these would not outweigh the environmental harm arising from the proposal

46. In the absence of a five year supply of housing, the Framework recognises the intrinsic beauty and character of the countryside as a core planning principle, and it should be given significant weight.

47. Whilst there is an existing shortfall in the five year housing land supply, it is likely that this will be resolved in the context of the emerging Local Plan and therefore the existing shortfall is likely to be of limited duration. In this context there is insufficient evidence to persuade me that the loss of the BMV land which comprises the appeal site is necessary to meet the housing needs of the Borough.

48. I have concluded above that the proposal would cause significant harm to the rural character and appearance of the site and the surrounding area and would also result in the loss of BMV land.

50. Taking everything into account, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.

e) Land Off Jubilee Fields, Upchurch

Upchurch is 2 miles from Newington. We cite this appeal decision as it was made 12 months ago.

We also refer to 19/501773/OUT 'Land Off Jubilee Fields Upchurch Kent ME9 7AQ', Outline application for residential development of 41no. two, three and four bedroom houses. This planning appeal in our neighbouring village was rejected in December 2020 (APP/V2255/W/20/3246265)

Even though, at the time, the '5YHLS is no more than 4.6 years and may be closer to 4 years. The shortfall is therefore of concern but cannot be said to be acute.'

and the conclusion:

I have found that the proposal conflicts with the development plan as a whole. The other considerations in this case, namely the shortfall in 5YHLS and the provisions of the Framework, are of insufficient weight to outweigh that conflict. For this reason, the appeal is dismissed.

We believe that this decision should equally apply to this application in Newington.

Consistency of decision making is a fundamental principle of planning law and local authorities can only depart from it if they give cogent reasons for doing so.

<http://www.bailii.org/ew/cases/EWCA/Civ/2018/1519.html>

Bearing Fruits 2031: The Swale Borough Local Plan 2017 has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states

"At locations in the countryside, outside the built-up areas boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities".

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National planning policy does not support this application and it certainly does nothing to protect or enhance the setting.

4 Newington Air Quality Management Area

The proposed development is 200 metres East of Pond Farm. The effect on air quality was one of the two reasons why the Pond Farm appeal was refused after the Planning Inquiry in November 2016

See Pond Farm Inquiry - Appeal decision date 9 January 2016 Appeal Ref: APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140 (subsequently upheld by the High Court and Court of Appeal):

'even after taking into account the proposed mitigation measures, the appeal proposals would have an adverse effect in air quality, particularly in the Newington and Rainham AQMAs (proposals conflict with NPPF paragraphs 120 and 124)'

46 homes cannot be seen as a modest proposal and the cumulative effects of other recent developments, within Swale and also in the neighbouring authority of Medway which has permitted large developments in Rainham, will result in an increase in traffic flows through Newington. These combined cumulative developments already have a significant effect on the health of village residents, especially children and the elderly.

NB There were sporadic roadworks due to emergency gas repairs along the A2 through 2018 and into 2019. Newington High Street was closed completely for 5 weeks in summer 2019 for further emergency work to replace pipework. A larger 42 week scheme to replace all pipework began in September 2019 with one-way operation on different stretches since. The High Street was closed again in the early summer of 2020 to relocate a main valve and there have been several closures since due to emergencies and the new road junction to Watling Place. There was also lighter traffic due to the Covid-19 emergency. We therefore submit that air pollution readings over the past two years are not typical and cannot be considered as a baseline when estimating future pollution levels.

b) Air Quality Management Area in Newington.
Newington Parish Council is working with MidKent Environmental Services and a new, more accurate (PM10 and PM 2.5) monitoring equipment has recently be installed in the village centre. In addition to the vehicle numbers please consider also recent evidence of increased harm to those who have suffered Covid-19 from vehicle pollution. We note that the submitted Air Quality assessment proposes mitigation measures.

The total damage cost is £22,022 over five years from 2019. This is an estimate of the costs to society due to the impact of increases in emissions associated with the proposed development. As defined by the IAQM/EPUK guidance¹⁶ the damage cost relates to the value of mitigation that should be applied, preferably on-site.

This modest amount does nothing to reduce pollution in the village centre. More important, it does nothing to prevent further harm to the residents and pedestrians in the village – especially the vulnerable elderly and children walking to the village school or older children walking to bus stops to access secondary education in Rainham or Sittingbourne.

As well as the Pond Farm planning inspectorate decision we cite the Planet Earth decision and the Coroner verdict following the tragic death of Ella Adoo-Kissi-Debrah in Lewisham. We wish to protect the health of residents, especially young children and the vulnerable elderly in our village.

c) Air quality concerns immediately East of Newington

The 20 April 2020 Environmental Protection Report informs the intention for the ...

declaration of an AQMA in the Keycol Hill area (1km East of Newington) in response to exceedances shown in 2019. Therefore, I would recommend that a revised AQA is necessary to include 2019 data and the additional tubes to be included in the model. This is due to the

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significant air quality sensitivity that exists currently in the area and the need to address the worst case scenario.

Receptors that show moderate or substantial are R4; R5; R7; R14; R15. All receptors which show the highest impact on air quality are within the Newington AQMA.

There are therefore concerns about air pollution to the east and west of this proposed development, currently in open countryside, with AQMAs 300 yards and 2 miles west and the proposal for a new AQMA 1 mile to the east.

d) Air Quality concerns West of Newington – as traffic through Newington passes to and from Rainham.

please see:

Letter from Head of Planning Medway Council to Planning Officer at Swale Borough Council 24 February 2017 in response to the application for 124 homes on the A2 – now Watling Place

Neither the submitted Air Quality Assessment, as amended, nor the letter from the applicant's Air Quality Consultants, has assessed the impact of the development on the Rainham Air Quality Management Area, which is located approximately 1.8 miles (2.9km) west of the application site. Without evidence to the contrary and in the absence of an appropriate assessment Medway Council is unable to assess the full impact the development would have upon the Rainham Air Quality Management Area and as such, the development would be contrary to the provisions of paragraph 124 of the National Planning Policy Framework, the National Planning Practice Guidance in regard to Air Quality and Policy BNE24 of the Medway Local Plan 2003.

e) Relevant case history in Newington

The potential effect on air quality in Newington was one of the two reasons why the Pond Farm appeal was refused after the Planning Inquiry in November 2016

See Pond Farm Inquiry - Appeal decision date 9 January 2017 Appeal Ref:

APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140 (subsequently upheld by the High Court and Court of Appeal):

'even after taking into account the proposed mitigation measures, the appeal proposals would have an adverse effect in air quality, particularly in the Newington and Rainham AQMAs (proposals conflict with NPPF paragraphs 120 and 124)'

The Court of Appeal decision [EWHC 2768 (Admin)] 12 September 2019 (between Gladman Developments and Secretary of State for Communities and Local Government, Swale Borough Council & CPRE Kent

71. It was not unreasonable to think that the section 106 obligations represented the basis on which he was being invited to conclude that the financial contributions and proposed mitigation measures were adequate and would be effective. His conclusions show very clearly that he was unconvinced by both parts of the mitigation strategy – the financial contributions and the mitigation measures themselves.

77.... As Dr Bowes submitted, an essential purpose of the air quality action plans was to improve air quality in the Air Quality Management Areas, which, as the air quality action plan for Newington made quite clear, might require planning permission to be refused where effective mitigation could not be secured. Proposed development such as this, judged likely to worsen air quality in a material way because the proposed mitigation had not been shown to be effective, was inevitably inconsistent with the air quality action plans.

f) Conditions recommended on a current planning application in Newington

We note that for the current planning application for 20 dwellings (20/505059/FULL: Willow Trees, 111 High Street, Newington ME9 7JJ, Highways England has commented on the effect of the application to the proposed improvements to A249 junctions:

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It is therefore necessary, via the imposition of a condition, to ensure that there are no occupancies in this development prior to the completion of the junction improvements at M2 J5. 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

Planning Statement

6.4.3 At worst, the cumulative impacts of predicted NO₂ concentrations from both the proposed and committed developments is considered moderate or substantial depending on the location of the existing receptor

We note there are no proposed mitigation measures that would effectively prevent an increase in traffic pollution. The suggestion of a 'community orchard' would have little mitigation effect. Newington is classified as part of the 'fruit belt' and is surrounded by orchards growing many varieties of fruit, some maintained by large growers, others as individual smallholdings. Residents are therefore unexcited by the prospect of a community orchard.

Newington Parish Council has commissioned an independent report from the University of Kent Centre for Health Service Studies to examine the air quality reports that form part of each of the four significant planning applications current in the Village and the data available from the air quality monitoring devices in Newington. **The report is attached**

The Air Quality report for 128 High Street is prepared by Lustre Consulting, who has also compiled the reports for (20/501475/FULL) Eden Meadow and (21/504028/FULL) Land at School Lane. It is therefore curious that

83. **The AQA for 128 High Street does not consider School Lane or (20/505059/FULL) Willow Trees. The AQA does consider (20/501475/FULL) Eden Meadow**

However

84. **The AQA for 128 High Street and the AQA for School Lane are identical in terms of modelling. (!!)**

Therefore

... All of the arguments regarding model uncertainty and initial accuracy therefore also apply to 128 High Street

And from comments on 'Land at School Lane'...

75. ...The model systematically under-predicts (every location)

80. ...the initial model should not have proceeded to adjustment via a factor without revision and re-execution

In conclusion

93. ...It is not possible to conclude that any of these models are an accurate representation of reality

4. each of them displays varying degrees of flaw in air quality modelling and model uncertainty which needs addressing

5. The predictions computed for each of the AQAs for these developments are inconsistent

7. Proposed mitigation for cumulative impact are simply vague suggestions with not reasoning or rationale provided as to their impact of implementation feasibility

8. Current levels for NO₂, PM_{2.5} and PM₁₀ within Newington exceed WHO guidelines for health.

9. The Newington AQMA has exceed NO₂ objectives in the last reliable year

10. the planning applications should be rejected on the grounds of air quality at this time

This shows the likely damage to the health of Newington residents from the cumulative effect of further housing development in the village.

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5 Visual Amenity

This proposal would lead to serious loss of visual amenity (footpaths ZR65 and ZR67/1) The proposed site would be visible from the Boyces Hill footpath, the Cranbrook Lane footpath, from Callaways Lane, which leads to Cranbrook and Cromas Woods (known locally as Monkey Island), is near to listed buildings and adjacent to the Newington Manor conservation area. This is a very popular bridleway and footpath, well-used by residents and hikers due to the fine views.

See Pond Farm Inquiry - Appeal decision date 9 January 2016 Appeal Ref: APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140 (subsequently upheld by the High Court and Court of Appeal): Third of the nine main issues 'The effect of the appeal proposals on landscape, character and the form of Newington'

The Inspector decision was that the proposals would have caused substantial harm to landscape character

Swale Borough Council's October 2019 Landscape Sensitivity Assessment
Pp 478-479 A1.214-A1.215

Natural Character: 'Cranbrook Wood is priority habitat deciduous woodland'
Overall Assessment: 'The landscape has a very undulating topography, a moderate sense of rural character with limited modern human influences, limited time depth with some heritage assets, limited valued natural features and semi-natural habitats, is visually enclosed and acts as an important rural gap between Sittingbourne and Newington. These attributes, in combination with the absence of landscape designations, indicate a moderate overall sensitivity to future change from residential development'

There is also a further detrimental effect on the grade II listed buildings Ellen's Place and Lion House, both located on Newington High Street

When commenting on the Eden Meadow application, the 'Heritage Addendum' by the Swale Conservation Officer, dated 17 September 2020 states:

The site is located immediately to the south of the grade II listed building known as Ellen's Place. ...The original outline application for 9 dwellings (allowed on appeal) and the subsequent reserved matters application failed to take adequate account, and as a result, the setting of this listed building has been harmed. ...through the suburbanisation of its setting. The proposed additional housing area would (as the proposal stands at present) exacerbate this impact through the process of cumulative change

I continue to have concerns about various design aspects of the proposal, including the siting and design of the proposed houses and flats and their juxtaposition with the road layout, my primary concern at this juncture remains the principle of allowing an extra 40 houses at this location, particularly when it is clear that there is an ambition to ultimately develop significantly beyond this. I believe my initial view and concern in this respect is effectively backed up by the conclusions set out in the David Huskisson landscape review report which inter-alia references the '*...tightness of the development in relation to its open countryside boundaries where either vegetation is proposed to be retained or augmented or new planting provided. There is simply not enough space to deliver an appropriately robust landscape structure on the present layout*'.

The applicant's heritage consultant makes reference to this document (Historic England Good Practice in Planning Advice Note 3 on The Setting of Heritage Assets 2nd Ed, Dec. 2017) but his assessment is in my view compromised in its degree of authority because of the failure to carefully and methodically work through the five steps (1-4 of which are for the applicant to action) provided in the guidance to allow for an objective conclusion to be reached. Furthermore, he has failed to completely take into account the section of the guidance which requires cumulative change to setting to be taken into account and factored into the assessment on the degree of (in this case) harm that would arise.

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The proposed development would impact on views across the open countryside from public footpath ZR65 looking northwards towards the A2. If the proposed development is approved as shown, it is very clear that this view of the listed building from this footpath will be lost and replaced with a strong sense of creeping urbanisation into the countryside separating Newington from Keycol. The concerns raised in this respect are not dissimilar to those raised by the planning officer in the report to planning committee on the 2016 outline application. I therefore strongly object to this application on principle for the reasons outlined above,

Swale Landscape Character and Biodiversity Appraisal, 2011

2.34 The stated guidelines for Area NN2 south-east of Newington are:

Conserve the rural setting of the Newington Manor Conservation Area, including:

- Maintain and enhance the well-integrated edges of the settlement so that development is not generally visible from the surrounding rural landscape.

Provide guidance to promote the retention of traditional rural boundaries and hedges including the use of native plants and avoid urban style boundaries/fencing;

We anticipate submitting additional comments when the additional reports requested by the planning officer have been added to the Midkent portal.

6 Ecology

The ecological survey appears to study the habitat in isolation: i.e. it may be "low quality" but a large contiguous area of low quality habitat may nonetheless be an important resource for a range of widespread but potentially threatened invertebrate species and birds. This is especially the case where they note valuable plants like burdock and teasel are present which are important to pollinators and winter birds. There is nothing here to say the developer would ensure there is no net loss of resource for the actual species currently supported!

The ecological survey does not explain the method used for the invertebrate survey, simply declaring "there aren't any important species there". There is no indication of how this was proved. We are puzzled that the report does not note that the site finding has a good chance of supporting some moderately noteworthy bees such as *Andrena gravida* and *Melitta leporine*. The "bee brick" mitigation seems to be 'greenwashing' as much better provision could be made via maintained bare ground with light sandy soil, dead wood and leaving some hollow plant stems around the site.

There is nothing in the report's proposals to make sure that the hedgerow is protected; this continuous stretch of hedgerow down supports a lot of birds and insects (incl. linnets). There is a danger of loss through increased traffic.

For the proposed 'Community Orchard' there is nothing on:

- staffing - for harvest, pruning, mowing and year-round maintenance work
- management
- an ecologically appropriate integrated pest and pollinator management scheme
- monitoring to ensure it does not become a reservoir of pests or diseases that will affect surrounding farms

There has been no consultation to see if there is sufficient interest in doing the work long-term and it is unclear how the developer intends to make sure the alleged biodiversity net gain lasts beyond the development period.

7 Transport

We believe the transport assessment does not present a true picture of services provided: There is a poor train services and buses do not operate in the evening, Sundays or Bank Holidays. It should be noted that bus services are roughly hourly, with 'direct' routes alternating

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with those via other local villages and taking more than an hour to Chatham. On weekdays the last bus to stop at Newington is 18.36 and 18.29 on Saturdays. There is a three hour gap between the more direct service to Chatham at 06.31 (terminates at Medway Hospital) and the next at 09.11.

Therefore it is unclear how this Transport Statement meets the requirements of Paragraph 110 of the NPPF

“Applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.”

The proposed development has pedestrian access to The Tracies, leading to Callaways Lane. Please note there is no westbound pedestrian footpath from the proposed new development entrance road to the High Street without crossing the busy A2.

In Planning Statement 6.4.7.

discouraging high emission vehicle use and encouraging the uptake of low emission fuels and technologies. *How is this to be achieved?*

A welcome pack online encourage the use of sustainable transport modes *How effective?*

Weighting given to local eV car clubs where possible *What does this mean?*

Working with Swale environmental protection to identify suitable NOx and PM abatement measures ... not entailing excessive cost *The final 4 words are very significant*

The KCC response seems to treat this application as a single allocation – not linking it to the further applications as outlined in the applicant’s planning statement Phase 1: the completed nine houses at Eden Meadow; Phase 2: Application Reference: 20/501475/FULL; Phase 3 this application : and a possible further phase three of potential additional land (see Figure 1-1: Site Location Plan page 26 of the Transport Assessment).

The Transport statement states

4.4.3 Policy CP2 seeks to encourage sustainable development in Swale.

Newington PC would have wished to see KCC responding to the whole scheme. The A2 at Newington is at capacity and this site on highway grounds is unsustainable.

8 The five year supply

We understand that Swale currently has a 4.6 year supply (ie an annual shortfall of 310 homes) and would submit that this is close enough for the harm from this proposed development to outweigh the need.

We repeat the December 2020 planning appeal decision

19/501773/OUT Land Off Jubilee Fields Upchurch (APP/V2255/W/20/3246265)

I have found that the proposal conflicts with the development plan as a whole. The other considerations in this case, namely the shortfall in SYHLS and the provisions of the Framework, are of insufficient weight to outweigh that conflict. For this reason, the appeal is dismissed.

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The principle of consistency within planning decisions requires that a previous decision is capable of being a material consideration in a subsequent similar or related decision.

9 Conclusion

The proposal does not meet the definition of sustainable development in rural areas

“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

It does not provide housing for agricultural workers in the neighbouring fields and so is contrary to the principle.

Para 108 of the NPPF - In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

This site was not put forward in the call for sites and has not been recommended for allocation in the draft plan. Indeed the Swale Local Plan Panel on 29 October 2020 followed the officer recommendation that no sites in Newington should be progressed for inclusion as allocations in the Local Plan Review. This was accepted unanimously at full council.

The December 2020 planning appeal decision

19/501773/OUT Land Off Jubilee Fields Upchurch (APP/V2255/W/20/3246265)

there is no specific evidence to suggest that the need for affordable homes in Upchurch is particularly pressing. In the short term, the school would face difficulties accommodating the extra 11 children

We believe the same argument applies to Newington.

The reference to electric vehicle charging points is a requirement of all local applications and so a token gesture here. Although we welcome the inclusion of heat source pumps we regret the absence of solar panels.

We have major concerns for the health of Newington residents with potential further harm due to cumulative development in addition to the traffic which passes through our village each day. Please see the University of Kent School of Health Studies report which evaluates the unacceptable pollution levels in the village the potential increase if further housing development is permitted.

The proposal does nothing to improve the *economy* of Newington, there are no obvious *social* benefits and clear *environmental* harm through increased pollution and the loss of farmland.

Please see the independent report from the University of Kent Centre for Health Service Studies which examines the air quality reports that form part of each of the four significant planning applications current in the Village and the data available from the air quality monitoring devices in Newington.

Newington Parish Council requests that, in the event of the planning officer recommending approval, this response be forwarded to all members of planning committee as well as the customary summary in the officer report.

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Appendix 1:

Properties with planning permission in Newington since 2011

Known As	Properties Count	Decision Issued Date	Planning Reference
Playstool Close	4	Feb-11	SW/10/1630
Vicarage Court	10	Jul-11	SW/10/1629
Hidden Mews	4	Dec-12	SW/12/0637
Total 2011 pre 2014	18		
School Lane (Parsonage Farm)	14	May-15	SW/14/0486
Tractor shed (Bull Lane)	1	Oct-15	15/504706
Church Lane	1	Oct-16	16/505663
Former Workingmen's Club	11	Jul-17	16/506166
Chesley Oast	5	Aug-17	16/506159
Eden Meadow	9	Sep-17	16/505861
High Oak Hill (Harbex)	6	Nov-17	17/504376
The Willows (9 London Road)	1	Dec-17	17/503349
Land N. of the High Street (Persimmon)	124	Apr-18	60/501266
Callaways Lane	1	Sep-18	18/503564
The Tracies	5	May-19	18/505315
Car Wash (studio flat)	1	Jul-19	17/504813
The Vicarage	3	Aug- 19	19/503528
Cromas (Land Adjacent)	1	Jan-20	19/506356
Total 2014 to 2020 (March)	183		
Overall Total Since 2011	201		