

PLANNING COMMITTEE – 9 FEBRUARY 2023**DEFERRED ITEM**

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

3.1 REFERENCE NO - 21/502256/OUT		
APPLICATION PROPOSAL		
Outline Application with all matters reserved to determine the principle of residential development of up to 64 No 3 and 4 Bedroom dwellings of 1 storey, 1 and half storey, 2 storey, and 2 and half storey dwellings with all associated parking, infrastructure and landscape amenity spaces.		
ADDRESS Land North East Of Nelson Avenue Minster-On-Sea Sheerness Kent		
RECOMMENDATION		
An appeal has been submitted against non-determination of this application (Ref: APP/V2255/W/22/3313783) and it cannot now be formally determined by the Council. However, Members need to determine whether the application would have been approved if it was still before them, or on what grounds they would have refused planning permission. This will then form the basis of the Council's case regarding the development, for the purposes of the appeal.		
It is recommended that Members resolve that had the application not been subject to an appeal it would have been refused for the two putative reasons set out at section 10 below.		
SUMMARY OF REASONS FOR RECOMMENDATION:		
As above		
REASON FOR REFERRAL TO COMMITTEE		
As above		
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr Michael Piper AGENT Kent Design Partnership
DECISION DUE DATE 18/08/21	PUBLICITY EXPIRY DATE 02/06/2022	CASE OFFICER Jim Wilson

Planning History

SW/06/0627

Change of use of land to house & graze horses and erection of two stable block and pole barn (retrospective).

Grant of Conditional PP Decision Date: 25.08.2006

Adjacent Site

There is a planning application for up to 100 dwellings on the land immediately to the east of this site. For completeness, the details of that application are:

20/504408/OUT - Outline application for residential development of up to 100 no. dwellings (Access being sought with all other matters reserved) APPEAL DISMISSED

An appeal was been submitted against non-determination of this application (Ref :APP/V2255/W/22/3298959). A report was reported to the 21st July 2022 Planning Committee recommending refusal reasons to support the appeal. These refusal reasons were agreed by Members.

An appeal hearing was held on 14th September 2022, and an appeal decision dismissing the appeal was issued on 5th October 2022. This is attached as Appendix 1.

1. DESCRIPTION OF SITE

- 1.1 The site is an area of some 4.3ha of agricultural farmland, with some areas for grazing paddocks, located outside the settlement boundary of Minster-on-Sea in the open countryside. It is unallocated land.
- 1.2 There is a steep gradient on the site: it slopes downwards from north to the southern end of the site, in a downwards gradient of approximately, which gives the site a strong, rolling countryside appearance.
- 1.3 Immediately to the west of the site are grazing paddocks, beyond this are residential properties on Scocles Road, to the south of the site are the rear gardens of Nelson Avenue. To the north of the site lies public footpath ZS8 which follows the northern boundary of the site, beyond the public footpath there are grazing paddocks and Minster Cricket Club Sports Ground to the north-east. To the east are open fields, beyond an existing mature hedgerow.
- 1.4 Although the southern boundary of the site connects to the rear gardens of Nelson Avenue, albeit separated by mature hedging and fencing, there are a number of green fields surrounding the site to the north, east and west. It is in this context, that the site appears not to be connected to the existing urban area.
- 1.5 There is a Lower Medway Internal Drainage Board (L.M.I.D.B) surface water drainage ditch which runs parallel and immediately adjacent to the southern boundary within the site before discharging via a headwall into a piped outfall route in a southerly direction crossing beneath both Nelson and Drake Avenues before discharging to existing drainage ditches in farmland to the south.
- 1.6 The site boundary is distinguished by mature hedgerow on the eastern and northern boundaries, with a mix of hedgerows and residential fences along the southern boundary, and low grazing paddock fencing to the west.
- 1.7 There are heritage assets to the north of the site. These are the Grade I listed C12 Minster Abbey and the grade I listed gatehouse with 49 Chapel Street being a Grade II listed building, and Minster Abbey is a Scheduled Monument.
- 1.8 There is no current vehicular access to the site due to its location behind Nelson Avenue & Scocles Road.
- 1.9 The site is not subject to a landscape designation nor is it located in an Important Countryside Gap.

2. PROPOSAL

- 2.1 The application seeks outline planning permission (with all matters reserved) to determine the principle of residential development of up to 64 No 3 and 4 Bedroom dwellings of 1 storey, 1 and half storey, 2 storey, and 2 and half storey dwellings with all associated parking, infrastructure and landscape amenity spaces.
- 2.2 The application has been supported by an indicative and illustrative plans, including an indicative site development layout; illustrative street elevations; illustrative site sections; storey heights drawing; ridge height diagram; constraints and opportunities diagram.
- 2.3 The indicative details show that the proposed vehicular access would be via a priority junction that would be achieved via the removal of a single storey dwelling along Nelson Avenue known as Pandora. A secondary route for pedestrians, cyclists and emergency vehicles is shown from Scocles Road between 39 and 41 Scocles Road.
- 2.4 The dwellings are shown around four central quadrants of perimeter blocks, as well a North-South linear row on the western and eastern boundaries. An area of open spaces is shown in the northern part of the site, with an attenuation pond along the southern part of the site.
- 2.5 The indicative storey heights plan shows that there would 8 x 1 storey dwellings; 15 x 1 ½ storey dwellings; 25 x 2 storey dwellings; and 16 x 2 ½ storey dwellings. The dwellings in the northern part of the residential area (to north of central access road) would be primarily 1 storey or 1 ½ storeys in height, with three 2 ½ storey units. In the southern part of the residential area (to the south of the central access road) the units would be primarily 2 storey and 2 ½ storey, with two 1 ½ storey dwellings adjacent to the pedestrian/cycle/emergency route. A corresponding ridge heights drawing has been provided with the ridge height for each dwelling type being; 6.2m for 1 storey dwellings; 7.6m for 1 ½ storey dwellings; 8m x 2 storey dwellings; and 9.2m x 2 ½ storey dwellings.

3. PLANNING CONSTRAINTS

- Outside the settlement boundary
- Within 6KM Buffer for SAMMS Strategy
- Public Right of Way ZS8 is situated adjacent to the north and north-eastern boundary
- Flood Zone 1: An area with a low probability of flooding
- Agricultural Land Classification: Grade 3
- Within proximity of the following Listed Buildings:
 - Grade I: The Abbey Church of St Mary and St Sexburga (list entry: 1273489)
 - Grade I: The Abbey Gatehouse (list entry: 1258332)
 - Grade II: 49 Chapel Street (list entry: 1258068)
- Adjacent to an area of Local Green Space (DM18)
- Within proximity to a Scheduled Monument (DM34) (the Abbey)

4. POLICY AND CONSIDERATIONS

- 4.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017
- 4.2 **ST 1** Delivering sustainable development in Swale
ST 2 Development targets for jobs and homes 2014- 2031

- ST3** The Swale settlement strategy
- ST4** Meeting the Local Plan development targets
- ST 6** The Isle of Sheppey area strategy
- CP 1** Building a strong, competitive economy
- CP3** Delivering a wide choice of high quality homes
- CP 4** Requiring good design
- CP 6** Community facilities and services to meet local needs
- CP 8** Conserving and enhancing the historic environment
- DM 7** Vehicle parking
- DM 8** Affordable Housing
- DM 14** General development criteria
- DM 18** Local Green Spaces
- DM 19** Sustainable design and construction
- DM 20** Renewable and low carbon energy
- DM 21** Water, flooding and drainage
- DM 24** Landscape
- DM 28** Biodiversity and geological conservation
- DM 29** Woodlands and Trees
- DM 31** Agricultural Land
- DM 32** Development involving listed buildings
- DM 34** Scheduled Monuments and archaeological sites

Supplementary Planning Documents:

Developer Contributions (2009); Parking Standards (2020)

Swale's Landscape Character and Biodiversity Appraisal (2011) & Swale Landscape Assessment (2019)

5. LOCAL REPRESENTATIONS

- 5.1 Letter were sent to neighbouring occupiers; a notice was published in the press and a site notice was displayed in the vicinity of the site. In response 69 objections were received and can be summarised as follows:

- Increased traffic and congestion on Elm Lane, Nelson Avenue and Scocles Road, Lower Road
- Nelson Avenue used as a rat run
- Insufficient capacity on local road network and wider road network (A249 and M2 J5)
- There have been traffic accidents on Scocles Road and Elm Lane
- Traffic monitoring not accurate – it was carried out during lockdown
- Nelson Avenue not suitable for a new vehicular access (for residential use; and for construction traffic)
- Highways safety risk – insufficient lighting for walking; narrow roads
- Poor public transport links
- Reduction in parking on Nelson Avenue from proposed access & yellow lines.
- Concerned the access would serve this site, and the proposed 150 dwellings off Elm Lane
- Bearing Fruits Plan 3.1.5, Lower Road is at CAPACITY and cannot support any more cars without MAJOR investment. Lower Road often gridlocked after an accident.
- Increased flooding issues – Nelson Avenue is very vulnerable to water run off, and floods at the bottom of the hill
- Existing surface water drains and culverts are inadequate resulting in flooding
- Sewerage capacity concerns
- Loss of green fields/spaces and views
- Destruction of landscape
- Should build on brownfield sites
- Loss of horse grazing land for riding school, causing it to close.
- This development should be looked at in the context of the two other neighbouring planning application at Nelson Avenue and Scocles Road
- Loss of wildlife
- Wildlife diverse on the site including bats, kestrels, buzzards, and sparrow hawks. There are foxes, hedgehogs, Woodpeckers, countless bird species including skylarks, swallows, swifts, crows, ravens, house sparrows etc. There are frogs and newts that migrate to different ponds from that field.
- Impact on people's mental well-being
- Will put pressure on GPs -9,000 people have been told to register with Sittingbourne medical practices.
- Schools over capacity
- Overshadowing to properties on Nelson Avenue
- Loss of privacy and overlooking to properties on Nelson Avenue
- Harmful outlook from properties on Nelson Avenue
- Harmful impact to amenity from noise, traffic, dust, construction traffic, vehicle lights on access
- Loss of peace and tranquility to properties on Nelson Avenue
- Increased pressure on infrastructure on Isle of Sheppey; eg. hospitals, GP practices, schools, dentists
- Lack of infrastructure of Isle of Sheppey
- Limited shops and amenities in the area
- Lack of jobs on Isle of Sheppey
- Harmful impact on footpath/bridalway as will change from field to a concrete path
- Site used as open space for walkers, dog walkers, families etc.
- Overdevelopment of the area
- Proposal is for 3 & 4 bedroom home, whereas local needs is for smaller family homes
- Proposal should include bungalows, landscaped areas with parkland
- Increased air pollution and harm to health
- Archaeological potential due to proximity to Minster Abbey site

- Contamination: There is old asbestos pipework within the ground

Swale Footpaths Group comments are summarised as follows:

6. No objection, and don't envisage substantive impact on adjacent PROW (namely ZS9). Detailed comments are made, which can be addressed at reserved matters stage, if the appeal is allowed.
7. **Minster Parish Council** object to the proposal for the following reasons: -
 1. The proposed site being outside the Local Plan Development Area, would involve the further loss of open countryside, to the detriment of a much-loved landscape, precious rural amenity and residents' well-being.
 2. It would also displace the prolific wildlife that has long been a feature of this site and so put further pressure on Sheppey's ever-shrinking natural habitats.
 3. The number of dwellings proposed would clearly represent over-intensive development, exacerbated by the height, bulk and close proximity of dwellings in the street-scene. The over-all effect would be incompatible with the scale, design, and character of the established low-density housing that typifies the surrounding area.
 4. Existing problems of surface-water flooding in the Nelson Avenue/Drake Avenue area would be increased rather than alleviated by the new development.
 5. Vehicles emanating from the occupation of the site and servicing its amenities will place an unacceptable burden on an already over-congested local road network, both on and off the Island. Site access arrangements are impractical and unsafe.
 6. With overwhelming pressure on a whole range of public services on Sheppey, there is no justification for further adding to that burden by increasing its population via a spurious demand for more housing - especially since the current 5-year Target for new-build housing in Swale, including on the Island, has now been achieved.
 7. The impact on the overall vision of Minster Village and Grade 1 Listed Abbey and Gatehouse Museum will be detrimental and cannot be mitigated against. This goes against Swale Borough Council's Local Plan policy which is to protect and conserve local heritage.

7.1 *Expanding on the above:-*

Swale Borough Council's Pre-Planning Advice on an adjacent greenfield site of similar size is specific about the settlement strategy, under Policy ST3, which "seeks to restrict development in the countryside unless it is able to demonstrate that it would contribute to protecting its intrinsic value, landscape setting, tranquillity and beauty, its buildings and the vitality of rural communities". So, precisely what this current application fails to achieve.

7.2 *The site is also in the impact zone of the Special Protection Area for ecology in this part of the countryside, which highlights the adverse impact to wildlife from its development.*

7.3 *From a safety viewpoint, the design of its access points poses more questions than answers. Allowing pedestrians and cyclists to exit onto Scocles Road via a steep, relatively narrow*

track poses the constant risk of uncontrolled collision with vehicles using that road. Lack of adequate visibility splays and a dearth of pavements on the east side of Scocles Road increase the danger considerably, and the applicants' justification that providing a cycling and walking route to village amenities is a sustainable policy stretches credibility. As does the track's function as a convenient access to bus routes, since apart from school buses, other Island routes are scheduled to be discontinued, due to lack of financial viability. The existing bus stop in Scocles Road near Harps Avenue has already been closed to the public.

- 7.4 *The main access to the site, in Nelson Avenue, will have its own problems, with the sheer volume of traffic generated within the site inevitably increasing congestion in a residential road already inadequate in terms of parking and passing, with a further reduction in spaces for existing residents as a result of the width of visibility splays at the access itself. Within the site, the proposed cycle route poses the real risk of pedestrian/cycle collisions, due to insufficient intervisibility between southbound cyclists and westbound pedestrians from Nelson Avenue's northern footpath. Concerns about how refuse vehicles will negotiate the site's cluttered internal road have been met by a 'swept-path analysis' suggesting there will be no need to use reverse gear. Really? All these site-specific issues are apparently to be 'reviewed' and shown to be satisfactory at the final Reserved Matters stage - when of course it will be too late to prevent approval of an application that is fundamentally flawed.*
- 7.5 *Amongst the most contentious aspects of this application is the claim by the applicants' agent that the extra traffic generated will be easily absorbed by the local highway network and therefore insignificant. This is obviously not the case. Scocles Road is critically overloaded already, with poor visibility on dangerous bends, narrow 'pinch points', and inadequate speed restrictions - culminating in queues and tailbacks at its junction with the A2500 Lower Road, which is itself operating at above its design capacity.*
- 7.6 *The A249 too has far exceeded its design capacity, and is critically congested from the Island to the M2. The situation on this road is deemed so serious that Highways England – the Government's appointed Highway and Traffic Authority - has imposed a Condition on larger planning applications coming forward for housing sites in Swale until scheduled improvements are made under the Roads Investment Strategy and Housing Infrastructure fund to both M2 Junction 5 and the A249 Grovehurst Junction. No such sites given permission shall be fully occupied until the opening to the public of these completed schemes. The reason given is "To ensure (these roads) continue to be an effective part of the national system of routes for through traffic, and to satisfy the reasonable requirements of road safety". Interestingly, Highways England also notes that "We do not accept the argument that such sites are generating traffic that is the equivalent of 'daily fluctuations'. They are not. They, and all other sites, are individually and cumulatively contributing to growth in traffic".*
- 7.7 *Minster-on-Sea Parish Council would say that 'cumulative' is the key word here, as following the recent approval of 'The Slips', there are now three large sites under consideration between Scocles Road and Elm Lane: the one being considered here, another awaiting an appeal decision, (after SBC's refusal, primarily on traffic grounds) and a third in obedience, following Pre-Planning Advice as mentioned above. Also included in part of that Advice was that: "Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe." On this basis, the applicant's statement that there are no known proposed*

developments with planning consent of similar or large-scale size within the immediate vicinity of the site is simply not true.

- 7.8 *Furthermore, a word of caution, while this is an outline application aimed at determining the principle of residential development on this Greenfield Site, it also includes numbers as in 'up to,' so, it appears in principle, to be not just seeking the development of the site but seeking the 'density proposed.' This presents as a game changer because outline doesn't usually mention numbers, only change of use and this type of application does not bode well for the protection of the open countryside going forward.*
- 7.9 *Minster on Sea Parish Council would contend that the severity of that impact has now been demonstrated beyond doubt. In view of that, and for all of the other specific reasons given above, we would urge Swale Borough Council to REJECT this application”*

8. CONSULTATIONS

Environment Agency – No comments

Historic England – No comments

Natural England- No objection to the proposal subject the adoption of an Appropriate Assessment and suitable mitigation being secured. This can be done in the form of a financial contribution to mitigate the potential impacts of increased residential use upon the coastal Special Protection Area(s) and Ramsar Site(s).

Interated Care Board- An updated response is awaited reflecting the fact that scheme is now for up to 64 dwellings, rather than 73 as initially proposed. Members will be updated at the meeting.

Southern Water - No objections subject to conditions relating to additional conditions in respect of (i) phasing of development delivery to align with provision of drainage infrastructure and (ii) details of foul and surface water drainage.

KCC Archaeology- No objection subject to conditions.

KCC Development Contributions No objection subject to securing the appropriate contributions to mitigate the development.

	Per 'Applicable' House (x64)	Per 'applicable' Flat	Total	Project
Primary	£6,800.00	£1700.00	£435,200.00	Towards the new 2FE Primary School construction upon land at Rushenden, Queenborough
Secondary Education	£4,540.00	£1135.00	£290,560.00	Towards Highsted & Borden Grammar School expansions

	Per Dwelling (x64)	Total	Project
Community Learning	£16.42	£1,050.88	Contributions requested towards additional equipment and resources at Sheerness Adult Education Centre
Youth Service	£65.50	£4,192.00	Contributions requested towards additional Youth Service resources locally
Library Book stock	£55.45	£3,548.80	Contributions requested towards additional services and stock at Minster Library
Social Care	£146.88	£9,400.32	Specialist care accommodation in Swale District
Waste	£183.67	£11,754.88	Towards MRF and additional capacity at the HWRC & WTS in Sittingbourne

A pre-commencement condition regarding broadband is also requested.

KCC Ecology No objection subject to conditions relating to the submission of a lighting plan and a scheme of ecological mitigations and enhancements. They also advise that an Appropriate Assessment needs to be adopted.

KCC Flood and Water Management- No objection, subject to conditions seeking a detailed sustainable surface water drainage scheme and verification report for the surface water drainage system.

KCC Highways – No objection subject to the access being agreed at the reserved matters stage and noting that a developer contribution (of £1200 per dwelling) will be required to support public transport provision locally.

KCC Public Rights of Way (PROW) - No objections, subject to a contribution of £47,500 towards the provision of a sealed surface path to a width of 2.5 metres for the section of public footpath ZS8 to the north of the proposed development.

Internal Drainage Board – No objection subject to the applicant gaining the relevant consents from the Lower Medway Internal Drainage Board.

Kent Police- No objection subject to a condition requiring the applicant to apply secured by design principles at reserved matters stage.

Rural Planning Consultant – No objection to the proposal on the basis that the land appears to be 3b agricultural land (and not Grade 2 as indicated in the applicants planning statement) therefore the site does not constitute best and most versatile agricultural land. The land is steeply sloping and the general soil type in the area is seasonally wet loam/clay with impeded drainage. The Planning Statement refers to it being unused for agriculture for many years. Taking this into account the loss of agricultural land is not considered to be significant issue in this case.

SBC Climate Change Officer – No objection and notes that, in any case, the detail of the sustainability measures will be agreed at reserved matters stage. Members will note that should the appeal be allowed a condition should be imposed to ensure that a scheme of sustainability measures (including to minimise CO2 emissions) is provided.

9. APPRAISAL

Principle of Development

- 9.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 9.2 Paragraph 10 of the NPPF states that at the heart of the NPPF is a presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social and environmental and to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
- 9.3 The mechanism for applying the presumption in favour of sustainable development is set out in paragraph 11 and states that for decision-taking this means:
 - c) approving development proposals that accord with the Development Plan without delay; and,
 - 9.4 d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 9.5 Assessing the development against the development plan and specifically policies ST1, ST3 and ST6 of the Local Plan because the site falls outside of defined confines of Minister and as such the proposal conflicts with the Local Plan 2017.
- 9.6 However, the Council can only demonstrate a 4.83 year supply of housing and as such cannot demonstrate a 5 year supply. In accordance with footnote 8 to paragraph 11 of the NPPF, its relevant policies for the supply of housing cannot be considered up-to-date. This does not, however, lead to an automatic assumption that planning permission should be granted for residential development in locations that would otherwise have conflicted with Development Plan policies. Rather in situations where the Development Plan policies have failed to secure a sufficient housing, the NPPF seeks to ensure that the 'presumption in favour of sustainable development' is duly applied. If the adverse impacts of the proposal significantly and demonstrable outweigh the benefits, then planning permission should still be refused.

- 9.7 Paragraph 80 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless there are special circumstances, to promote sustainable development in rural areas
- 9.8 Whilst the site is located outside of the defined boundary of Minister and therefore is located in the countryside, it is well located for housing in respect of future occupants being able to access services and facilities via sustainable travel methods including walking and cycling. This weighs in favour of supporting the principle of the development, subject to other relevant planning considerations.
- 9.9 In addition to this the site does not constitute the best and most versatile agricultural land and as such its loss against the need the housing does not to be assessed.

Landscape and Wider Impacts

- 9.10 The appeal site is not a designated landscape area but as countryside it has value as visual amenity from the public realm. The landscape in question has intrinsic value by virtue of being prominently located on an elevated site that is visible in views from the southern part of the Isle of Sheppey, and Policy DM24 is intended to protect it. Unsurprisingly, given that open space once built upon is lost forever, this amenity value is protected by both national and local planning policies.
- 9.11 The Local Plan policy DM24 states that the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced, and, where appropriate, managed. Moreover, Part B of this policy makes it clear that when a development results in having significant adverse impacts on the borough's landscape, the social and or economic benefits of the proposal will need to significantly and demonstrably outweigh the harm to the landscape character, and value of the area.
- 9.12 Part C of this policy also requires development inside the Borough's landscapes to be informed by Landscape and Visual Impact Assessments (LVIA). The applicants have submitted two Landscape and Visual Impact Assessments. The second LVIA, dated April 2022, supersedes the first. The Council instructed Land Use Consultants (LUC) to independently review this LVIA's. Their conclusions are summarised later in this chapter.
- 9.13 Swale's Landscape Character and Biodiversity Appraisal (2011) is also relevant as it provides a framework for Development Management decisions on matters of landscape character. The application site lies within Swale's Landscape Character Area 16 (Minster and Warden Farmlands). Some of the key characteristics of the area include rolling topography with mixed geology of London clay, Claygate beds, Bagshot beds and head gravel.
- 9.14 Whilst this chapter describes the overall condition of Swale's Landscape Character Area 16 as being "poor", it should be noted that this description relates to the character area in the round and does not reflect the condition of the geology and landscape of each individual parcel of land in that area, which varies enormously.
- 9.15 Certainly, over many years, a number of caravan sites and urban fringe activities like horse grazing and playing fields, and wire fences have sprung up and eroded the quality of certain parts of Landscape Character Area 16. However, large parts of attractive landscape remain and therefore it is imperative that the remaining attractive landscape parts of this area are retained, given the poor condition of the other parts.

- 9.16 In 2018, the Council commissioned Land Use Company (LUC) to carry out and produce the Swale Landscape Assessment (2019). LUC have created a five-point rating system from low to high to establish the sensitivity of the landscape.
- 9.17 In the Swale Landscape Assessment, the appeal site forms part of a Landscape Sensitivity Parcel that LUC has named MR5. LUC have classed MR5 as being “**moderate-high**” on their five-point landscape sensitivity scale: a clear indication that they consider this rural area to be sensitive and well worth safeguarding.
- 9.18 Indeed, in their summing up, as well as commenting that “the landscape retains a rural character despite modern developments and a degraded landscape condition in places”, they wrote:
- “The undulating landform, with distinctive hills forms a backdrop to much of Sheppey, is visually prominent and offers expansive views to the north and south. It also has an important role as part of the rural setting for Minster and provides separation from Eastchurch, and a rural gap along the undeveloped coast to the north. These attributes, indicate a moderate-high overall sensitivity to residential development”*
- 9.19 The summary goes on to add:
- “The visual prominence of this area and the fact that any large-scale development has the potential to be a highly visible within this sensitive landscape means that the area has a high overall sensitivity to employment development”*
- 9.20 The appeal site is not a poor quality, flat, backland development opportunity site. With its steep slopes, close relationship with neighbouring green fields and lack of tree coverage, it forms part of the open rolling countryside that defines the eastern side of Minster-on-Sea and is a key characteristic of this part of the island. The quality of openness washes over the site.
- 9.21 Once facing the site from the public footpath to the north (ZS8) and looking south across the site the rural surroundings are immediate; and it is very clear to a walker that they have left the urban settlement and reached open countryside. The walker does not have to go very far into the appeal site to experience magnificent short and long views of the open countryside across the Isle of Sheppey and this stretch as far as the mainland (NB: there are also views of this site from Marshes¹).
- 9.22 Although parts of the northern and eastern boundaries of the site contain mature hedging, there are significant vantage points between the hedges, from neighbouring properties, and on the Public Right of Way, which offer uninterrupted views of attractive open space. There are also views of the site from the south, including Nelson Avenue, public footpath ZS7, and from the roundabout on Scocles Road where the undeveloped hill slope is visually prominent.
- 9.23 Building housing on this site would reduce the effectiveness of its role as open countryside in an important position and remove it permanently. It would result in the urbanisation of vital countryside and irrevocably alter the rural character of the area.
- 9.24 Moreover, allowing housing development on this appeal site would set a precedent for further housing in this location, exacerbating the harm further still. It is worth noting that an appeal

¹ LUC, on page A1.119 in the Swale Landscape Assessment (2019) describe the elevated ridge the site is on as being “a prominent backdrop in views from the marshes”.

on the adjoining site (20/504408/OUT & APP/V2255/W/ 22/3298959) was recently dismissed, a key reason being the harm that development on this area of visually prominent open countryside would cause to the character and appearance of the area. The appeal decision is included as Appendix 1.

- 9.25 In short, in my opinion, the provision of housing will detract from the openness of the site in this sensitive location.
- 9.26 This conclusion is shared by LUC in their independent review of the appellants LVIA (see Appendix 2 and 3), who concludes that *“LUC consider that there will be a significant adverse impact on the landscape of the site and its wider character area as a result of this development.”*
- 9.27 LUC reach the following conclusions in their review dated May 2022:
- 9.28 *“The amended LVIA follows the general principles set out within GLVIA3 and has responded to the recommendations from the LVIA Review (December 2021) and subsequent meetings with SBC. The assessment therefore provides sufficient levels of information for SBC to make an informed planning decision.*
- 9.29 *Embedded mitigation within the amended design is included at para 4.6. The amended LVIA concludes that there will be a moderate adverse effect on the landscape of the Site (north of Nelson Avenue) at construction and year 1, which will reduce to minor adverse by year 15. The impacts on the other landscape character areas identified are assessed as being minor adverse at construction and year 1. At year 15 the effect on the urban areas of Scocles Road, Nelson/Drake Avenue, Chapel Street and Chequers Road is considered to be neutral, and the effect on Minster and Warden Farmlands is considered to be minor neutral.*
- 9.30 *LUC consider that there will be a significant adverse impact on the landscape of the site and its wider character area as a result of this development.”*
- 9.31 For all of the reasons above, I believe the material harm brought about by the loss of this open countryside is a clear breach of the Local Plan and significantly and demonstrably outweighs the benefits of the scheme. This would fail to protect the countryside and landscape, be contrary policies ST1, ST3, and DM24 (which seeks to protect and enhance non-designated landscapes). The localised landscape and visual harm would give rise to harm to the intrinsic value, landscape setting, tranquillity, and beauty of the countryside, and this is a significant negative.

Heritage

- 9.32 The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. 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 that may arise and this is endorsed by the Local Plan.
- 9.33 The Council's Conservation Officer has been consulted through the course of the application and has reviewed the Heritage Impact Assessment dated April 2021, and the Heritage Impact Assessment Amended Version dated April 2022. The Conservation Officer has reviewed

these documents. He broadly agrees with its conclusions that the development would be at the lower end of the less than substantial harm on the Abbey complex.

- 9.34 The Conservation Officer has concluded that whilst the limited views of the highly heritage significant Minster Abbey will add an extra dimension to the appreciation of the landscape quality at the proposed development area, development of the site will not necessarily remove all existing views of the abbey from it (where they currently exist), nor from land further south. Furthermore, there is no functional relationship between the proposed development area and the abbey, and this leads to conclude that whilst the change in form from grazing land to housing in the wider setting of the abbey would result in a very low level of harm (at the lower end of less than substantial harm in NPPF terms), the impact that would arise is not of sufficient magnitude to sustain a heritage-related reason for refusal.
- 9.35 The Conservation Officer has advised that if approval was recommended, that subsequent Reserved Matters Application should ensure that the view through the site of the Abbey is maintained, and for the layout of the housing scheme to maximise the opportunity to retain these views in parallel with planning and urban design considerations, given the contribution those views can make in placemaking terms.

Highways / Transport

- 9.36 Paragraph 111 of the NPPF sets out that development should only be refused on highways grounds when an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 92 promotes healthy, inclusive and safe places through a number of measures including ensuring streets are designed to allow easy pedestrian and cycle connections within and between neighbourhoods. This is further emphasised in Paragraph 104.
- 9.37 Policy DM6 sets out the requirements for managing transport demand and impact. The policy requires development proposals involving intensification of any existing access onto a strategic, primary or other route will need to demonstrate that it is of a suitable capacity and safety standard or can be improved to achieve such a standard. Policy DM 7 requires compliance with the Swale Vehicle Parking SPD. The policy further requires cycle parking facilities on new developments to be of an appropriate design and in a convenient, safe, secure and sheltered location.
- 9.38 The application has been supported by a Transport Statement Addendum which has considered that capacity on the local highway network, including junction capacity modelling and cumulative impacts of nearby development proposals. The document has demonstrated that there is sufficient capacity on the local highway network to accommodate the number of vehicular movements estimated to be generated by the proposed development without giving cause to any adverse impacts on capacity or road safety.
- 9.39 KCC Highways have advised that the impact on Barton Hill Drive/Minster Road from windfall applications such as this should be addressed through public transport contributions to make better use of bus services in the area. KCC Highways have therefore requested a contribution of £1,200 per dwelling to be used on providing access to bus services for residents.
- 9.40 The indicative vehicular access from Nelson Avenue would measure 5.5m wide with appropriate footways and cycleways, together with 6m junction radii and would be in

accordance with the geometric requirements in Kent Design Guide. The comments provided by KCC Highways outline that the indicative vehicular access would be suitable, subject to detailed design at reserved matters stage.

- 9.41 To enhance pedestrian connectivity, a pedestrian/cycle access and crossing link to the western side of Scocles Road will be required moving the scheme forward, and this will be subject to detailed design at reserved matters stage.
- 9.42 It is considered that off-site highway works including waiting restrictions along Nelson Avenue; a pedestrian crossing link to the western side of Scocles Road from the pedestrian access to the site; provision of replacement parking spaces for existing users on Nelson Avenue will be required if the scheme is approved, and these would be controlled via reserved matters when the access details are sought.
- 9.43 An indicative total of 155 residential parking spaces is shown across the site, in accordance with the 'Suburban' standards specified by the Swale Borough Council Parking Standards Supplementary Planning Document (SPD, 2020). In addition to these spaces, 45 garages are shown. A minimum of 13 parking spaces are shown across the proposed development as unallocated bays for visitors. Storage for at least one cycle per bedroom is shown within the curtilage of each unit, in accordance with the minimum standards specified by the Parking Standards SPD. 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.

Housing Mix

- 9.44 Paragraph 62 of the NPPF establishes that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. Policy CP3 of the Local Plan requires new development to achieve a mix of housing types, reflecting the findings of the current Strategic Housing Market Assessment or similar needs assessment along with meeting the housing requirements of specific groups, including families, older persons, or disabled and other vulnerable persons.
- 9.45 Figure 5.3.1 in the Local Plan forms the starting point for negotiations on the percentages sought in respect to housing mix. This establishes the following ratio:

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

- 9.46 The proposed development is for up to 64 no. 3 and 4 bedroom units, which would be a departure from the housing mix identified in CP3, as it omits any 1 or 2 bed units from the site. The split between 3 and 4 bedroom units is not known at this stage. Given the outline nature of the proposal, a condition could be imposed to secure an alternative housing mix which also includes 1 and 2 bedroom units.

Character and appearance In respect of density, Policy CP3 (wide choice of high-quality homes) of the Local Plan requires density should be determined by the context and the defining characteristics of the area. The application proposes up to 64 units. The total site area is 4.3 hectare, but the net developable area is not known at the time of writing this report.

- 9.47 The application includes an illustrative scheme. This plan is indicative only with the final design details to be provided at reserved matters stage, should the Planning Inspector grants outline planning permission. However, although illustrative, it is useful to have, as it demonstrates that the site can provide a reasonable area of open space for future residents to use. It also shows that the site layout can configure the units with appropriate spacing and the units will not be crammed; the layout is consistent with the character of the surrounding residential properties; each unit benefits from appropriate amenity standards and swept path analysis has been undertaken to demonstrate vehicular movement will not compromise highways safety. As such, the density of the scheme is considered to be appropriate and ensures efficient use of the land without compromise to the scheme.
- 9.48 Whilst the indicative site layout show that a reasonable scheme can be delivered on this site, no amount of landscaping around the houses will improve the landscape character and visual amenity of the site because attractive rolling countryside will, in essence, be lost by a housing development that, ultimately, would urbanise the countryside, to its detriment.

Living conditions

- 9.49 The National Planning Policy Framework (the Framework) identifies, as a core planning principle, that planning should always seek a high quality of design and a good standard of amenity for all existing and future occupants of land and buildings.
- 9.50 Policy DM14 is in line with this core planning principle and makes clear that development should provide good levels of amenity: it specifies that development should cause no significant harm to amenity and other sensitive uses or areas. This includes consideration of overlooking which should not unduly prejudice the operation of adjoining land through negative impacts on privacy.
- 9.51 On the basis of the indicative layout and the relationship of the site with nearby dwellings, it is considered that a detailed scheme that would not result in harm to neighbouring property occupiers can be achieved on the site.
- 9.52 Similarly, I do not believe future occupiers of this development would suffer from poor quality living conditions. The indicative site development layout, and details of the heights of buildings are considered appropriate to prevent overlooking, overshadowing or an overbearing impact being an issue.

Flood Risk/Drainage

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

- 9.54 Using the Environment Agency flood risk map, the application site is located within Flood Zone 1, however, due to the size of the site a Flood Risk Assessment has been submitted, which is also accompanied by a drainage strategy.
- 9.55 The report concludes that a scheme can be developed in a way that does not increase the risk of flooding to adjacent properties and development further downstream. The information provided outlines that the proposed SuDs strategy would comprise exocellular storage crates located beneath the private driveways, and a lined pond/basin to capture the runoff at the lowest point in the site (situated close to the southern boundary).
- 9.56 The application has been subject to consultation with KCC Flood and Water Management, the Environment Agency, and Southern Water. Although I note concerns about drainage by the neighbours, the comments I have received from the statutory consultees have raised no objection subject to the imposition of conditions requested by Southern Water and KCC.
- 9.57 The principle of residential dwellings in Flood Zone 1 is considered acceptable. The application is supported by the necessary assessments and has been subject to relevant consultation which has found the proposal to be acceptable.

Biodiversity

- 9.58 Paragraph 180 of the NPPF sets out the principles by which planning applications should be considered against in respect to habitats and biodiversity.
- 9.59 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.
- 9.60 The application is also supported by a Preliminary Ecological Appraisal Report, dated April 2021 prepared by the Fellgrove. 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.
- 9.61 The site is currently in use as an equestrian paddock, with limited mature planting. 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.
- 9.62 As set out at paragraph 6.24, KCC Ecology raise no objection subject to conditions, which are summarised as above.
- 9.63 The Preliminary Ecological Appraisal Report sets out that further ecological surveys are required, specifically regarding a bat scoping survey and habitat suitability surveys (re Great Crested Newts). It also outlines that the bramble vegetation and trees within the site boundary have high potential to support nesting birds, and will need to be protected as part of the proposal.

- 9.64 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 further survey work and suitable mitigation or enhancement. It is therefore recommended that conditions should seek further ecological surveys regarding bats, birds and GCN/habitats prior to the submission of reserved matters, and prior to the commencement of any development on site.
- 9.65 Moreover, it is recommended that the SAMMs tariff would need to be secured via legal agreement. 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 **£16,245.12** 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.

- 9.66 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).
- 9.67 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.
- 9.68 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.
- 9.69 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.
- 9.70 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).

- 9.71 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.
- 9.72 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.
- 9.73 Therefore, if a Unilateral Undertaking (UU) is provided or a S106 Agreement is signed, this aspect of the proposal would accord with Policy DM28 of the Local Plan and the NPPF. That there isn't a UU or signed s106 agreement before me as I write this report means that there is no guarantee that this obligation would be met, and the absence of the contribution forms weighs against the scheme and forms another reason for refusal.

Sustainability / Energy

- 9.74 The NPPF supports proposals for improvements to environmental sustainability, placing sustainability at the heart of the framework. Paragraph 152 requires the planning system to support the transition to a low carbon future in a changing climate, including the requirement to help shape places in ways that contribute to radical reductions in greenhouse gas emissions. Paragraph 154 goes on to require new development to reduce greenhouse gas emissions, such as through its location, orientation, and design. This is further iterated in Paragraph 157 which sets out that in determining planning applications, new development should take account of landform, layout, building orientation, massing, and landscaping to minimise energy consumption.
- 9.75 Policy DM19 of the Local Plan requires development proposals will include measures to address and adapt to climate change. The ways in which this shall be achieved are then further detailed in the policy; including measures such as use of materials and construction techniques which increase energy efficiency and thermal performance; promotion of waste reduction, re-use, recycling and composting; and design of buildings which will be adaptable to change and reuse over the long term and which include features which enable energy efficient ways of living, for example.
- 9.76 Policy DM21 also requires that new residential development, all homes to be designed to achieve a minimum water efficiency of 110 litres per person per day. It is recommended that this be secured by condition should consent be granted.
- 9.77 In addition to the above, the Council has declared a Climate Change and Ecological Emergency and all applications for new housing are expected to demonstrate how they incorporate all reasonable sustainable design and construction measures within the scheme

in order to minimise environmental impacts. This can include measures such as electric vehicle charging points (provision of one per dwelling); solar panels; passive energy measures; low NOx boilers as examples. Regarding the dwellings, it is the expectation that a reduction in CO2 emissions of 50% above the requirements of the Building Regulations be achieved.

9.78 The Council's Climate Change Officer has reviewed the details submitted by the appellant and concluded that it is thin on details and that this should be addressed at the reserved matters stage. It is considered that details relating to sustainable construction techniques and Electric Vehicle Charging Points can all be addressed through the imposition of conditions, if the Inspector is minded to grant planning permission, as the final layout and details would be dealt with at the Reserved Matters Stage.

Developer Contributions

9.79 Policy CP 6 and IMP 1 seek to deliver infrastructure requirements and other facilities to ensure the needs of the Borough are met.

9.80 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 education and secondary education. Further contributions would be sought for community learning, youth services, library book stock, social care, and waste.

9.81 Kent and Medway Clinical Commissioning Group also made comment noting that the proposal would generate a requirement for an additional 235 patients. The comments note that the proposal would fall within the current practice boundaries of The Om Medical Centre, Sheppey Healthy Living Centre, St Georges Medical Centre and Sheerness Health Centre within the local area. The proposal would need to contribute due to the limited capacity within existing general practices. The total amount requested would be **£84,420**

9.82 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 of up to **£66,496**.

9.83 Further, to the above Swale would require contribution towards the provision of wheelie bins of approximately. Administration/monitoring fees, SPA mitigation as referenced above, would be sought via the S.106 agreement.

9.84 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.

KCC Primary Education	(£6800 per house) & (£1700 per 'applicable' flat)
KCC Secondary Education	(£4540 per house) & (£1135 per 'applicable' flat)
KCC Community Learning	(£16.42 per dwelling)
KCC Youth Service	(£65.50 per dwelling)
KCC Library Book stock	(£55.45 per dwelling)
KCC Social Care	(£146.88 per dwelling)
KCC Waste	(£183.67 per dwelling)

KCC Highways	(request of £1,200 per dwelling)
KCC PROW	(request of £47,500)
NHS CCG	(request of £84,420)
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
Administration and Monitoring	(TBC)

9.85 The contribution per dwelling equates to approximately **£16,224.20**

9.86 The appellants have submitted a draft Unilateral Undertaking as part of the appeal documents which indicate the provision of the majority of the contributions listed above. However, the draft Unilateral Undertaking does not reflect the requested contributions by KCC Highways, or the contributions for SBC Formal Sports or SBC Play.

9.87 Given that there is no signed legal agreement at this stage, and the draft Unilateral Undertaking omits three required contributions, the absence of a signed legal agreement at the time of writing this report means that, potentially, the scheme might not mitigate its own impact. Therefore, the absence of a legal agreement committing to these contributions forms another reason for refusal and weighs against the benefits of the scheme.

10. CONCLUSION

10.1 As the Council cannot demonstrate a five year supply of housing , the proposal would fall to be considered under paragraph 11 of the NPPF and a balancing exercise has been undertaken reflective of the above.

10.2 In terms of negative aspects;

- The proposal is, overall, considered to result in localised landscape and visual harm and would result in a clear encroachment into the open countryside.
- The proposal would not re-use Previously Developed Land;
- The above are considered to be significant negatives

10.3 In terms of the positive aspects;

- The provision of up to 64 houses at a time when the Council cannot demonstrate a five year housing land supply;
- The modest positive benefits of improving the economic and social vitality of the area (during construction and through the introduction of new residents);
- Locational sustainability of the site
- Some fringe benefits would arise from some of the S106 financial obligations: only very limited weight would be given to these as S106 payments are there primarily to mitigate the impact of the development.

- 10.4 When assessed against para 11 of the NPPF, it is considered that the adverse impacts in terms of conflict with the environmental objectives of the Framework significantly and demonstrably outweigh the benefits of the proposal, even when the extent of the housing deficit is considered. As a result, I take the view that the proposal would fail to constitute sustainable development. As such, it is recommended that the application is refused.
- 10.5 The harm, which significantly and demonstrably outweighs the benefits, cannot be justified by reference to housing supply. Whilst housing is a welcome and clear benefit, there is no policy support for its delivery at the expense of the local context. The proposal's substantial non-compliance with national and local planning policies is not outweighed by housing delivery considerations. Therefore, if an appeal against non-determination had not been submitted to the Planning Inspectorate, then I would have been minded to recommend that the proposal be refused for the reasons set out below.

11. RECOMMENDATION

1) Putative reasons for refusal:

The proposed development would fail to protect the intrinsic value, tranquility and beauty of the countryside and rural context by virtue of its location outside the defined urban boundary of Minster-on-Sea. The proposal would also result in the creeping coalescence of adjacent parts of the settlement of Minster-on-Sea and the permanent loss of open countryside. This harm, both significantly and demonstrably, outweighs any benefits from the proposal (including its contribution to the overall supply of housing in the Borough and to the provision of affordable dwellings). The development is therefore contrary to policies ST1, ST3, CP3, CP4, DM9, DM14, DM24 of the "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and would be contrary to paragraphs 8, 20, 130, 174 and 185, 170 of the National Planning Policy Framework (2021).

- 2) No legal agreement has been finalised to secure mitigation against community and ecological harm, and as such the proposal is unacceptable on the basis of the unmitigated impacts that would be likely to result, contrary to the provisions of the development plan and the NPPF.

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.

