



The Planning Inspectorate

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## Appeal Decision

Inquiry Held on 7-10 March 2023

Site visit made on 18 April 2023

by **Patrick Hanna MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5<sup>th</sup> May 2023

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**Appeal Ref: APP/V2255/W/22/3311224**

**Land off Swanstree Avenue, Sittingbourne, Kent**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Gladman Developments Ltd against Swale Borough Council.
  - The application Ref 21/505498/OUT is dated 6 October 2021.
  - The development proposed up to 135 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point. All matters are reserved except for means of access.
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### Decision

1. The appeal is allowed and outline planning permission is granted for up to 135 dwellings with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access point at land off Swanstree Avenue, Sittingbourne, Kent, in accordance with the terms of the application Ref 21/505498/OUT, dated 6 October 2021, subject to the conditions in the attached schedule.

### Procedural matters

2. The application seeks outline planning permission with the principal means of access to be determined at this stage. Appearance, landscaping, layout and scale are reserved matters to be considered in the future. A development framework has been provided as an indicative plan for the site. I have determined the appeal on that basis. The description of development in the above decision has been amended to remove superfluous wording.
3. The Swale Borough Council (the Council) Statement of Housing Land Supply (2022) confirms that the Council cannot demonstrate a five year supply of deliverable housing sites, indicating a supply of 4.8 years (a shortfall of 202 units). This figure is disputed by the appellant who calculates the supply to be 3.4 years (a shortfall of 1,806 units). I return to this later in this decision.
4. A draft planning obligation pursuant to s106 of the Town and Country Planning Act 1990 was discussed at the inquiry, and a signed deed of agreement was submitted shortly afterwards dated 14 March 2023. The obligation contains covenants relating to financial contributions, ecological mitigation, affordable housing, first homes, and open space, to which I return below.
5. In exercise of the powers conferred on the Secretary of State by Regulations 14(1) and 7(5) of the Town and Country Planning (Environmental Impact

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Assessment) Regulations 2017, on 6 January 2023 the Secretary of State directed that the proposed development is not EIA development.

### **Main issues**

6. Following submission of the appeal, the Council provided two putative reasons for refusal. The second putative reason, relating to infrastructure and contributions, has been addressed to the satisfaction of the Council by means of the planning obligation. On that basis, the main issues are:
  - the effect on the character and appearance of the area, with particular regard to the effect on the landscape and an Important Local Countryside Gap (ILCG) designation;
  - whether the site is a suitable location for the proposed development having regard to the Council's development strategy and national policy; and
  - the effect on agricultural land.

### **Reasons**

7. The appeal site is some 5.9 hectares of agricultural land to the south of Sittingbourne, comprising areas of orchard and arable land. The site lies adjacent to residential areas, with Swanstree Avenue to the north of the site, and Chilton Manor Farm and Highsted Road to the west. Open countryside lies beyond the eastern and southern boundaries of the site, where a dry valley rises to a ridge, with Rodmersham and Rodmersham Green beyond. The site is mostly level, with a gentle fall towards the northwest corner of the site.
8. Many of the houses to the west, north and further east of the appeal site do not face directly onto it. However, the presence of these built forms is clear from within the site, despite intervening landscaping, as is the urban influence of traffic on the roads. The relative flatness of the appeal site is also discernibly different in character from the adjacent sloping arable fields in the dry valley. As such, the appeal site is transitional in character, being both influenced by the existing settlement yet distinct from the wider surrounding countryside.
9. The proposal is for residential development of up to 135 dwellings, 30% of which would be affordable, with public open space and landscaping. Access would be taken from Swanstree Avenue.
10. The development plan includes the Bearing Fruits 2031: Swale Borough Local Plan (2017)(LP). The emerging Swale Borough Local Plan Issues and Preferred Options (eLP) was published for Regulation 18 consultation in October 2021. However, in October 2022, the Council resolved to suspend the review of the local plan until the Levelling-Up and Regeneration Bill gains Royal Assent.

### *Character and appearance*

#### *Landscape effects*

11. The LP designates an Area of High Landscape Value (AHLV)(Kent Level) to the south of Sittingbourne including the appeal site. As such, notwithstanding subsequent consideration given by the Council to potentially redraw the AHLV boundaries, the appeal site currently forms part of a valued landscape in terms of paragraph 174 of the National Planning Policy Framework (the Framework).

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12. The landscape change that would be caused by the proposal would be low in the context of the extent of the overall Dry Valley and Downs landscape character type and Tunstall Farmlands landscape character area, for each of which the site forms only a small part.<sup>1</sup> The parties broadly agree there would be minor to moderate adverse effects in this respect, and I see no substantive reason to disagree. Greater change would occur to the site and surroundings; firstly, the existing orchards within the site, which contribute positively to the character of the area, would be lost; and, secondly, the introduction of new buildings and infrastructure would wholly alter the existing fabric and character of the site itself. As such, there would be a high adverse effect on the site and surroundings, notwithstanding that the retention or replacement of boundary hedgerows, along with new areas of planting, would assist with integration of the development into the surrounding landscape over time.
13. Interested parties at the inquiry expressed concern at the effect of the proposal on the tranquillity and beauty of the countryside adjacent to the settlement. However, I have already found that the character of the appeal site is partly transitional. The countryside beyond the urban edge would remain tranquil and intrinsically attractive even if the settlement were extended by the proposal.

*Visual effects*

14. The visual envelope of the site is relatively localised, being enclosed by the ridge to the south and south east, and elsewhere by the settlement and the Highsted Road wood. The properties at Chilton Manor Farm, immediately to the west of the site would lose open views across the countryside, which would be replaced by clear views of the proposed dwellings, resulting in a high adverse effect. The outlook from some other properties around the site would also be affected, particularly from properties to the north of Swanstree Avenue and from upper floors. Due to distance and intervening gardens, trees, fences and other features, I find that adverse effects to these properties would vary, but be no more than moderate.
15. Footpath ZU30 runs alongside the south eastern site boundary, and the experience and outlook from this path would be wholly changed on one side, resulting in high adverse effects. Footpath ZU31 runs through the northern part of the site for a short distance, where high adverse effects would again be experienced. ZU31 then continues to the south east, rising up to the ridge. From this higher ground, the proposal would be seen as part of the existing settlement and distinct from the slopes of the valley and the wider countryside, with moderate adverse effects. From ZU34A and ZU35, views would only be partial, being glimpsed through vegetation and landforms. Consequently, where the site could be seen, adverse effects would be minor. Road users would also only experience partial and fleeting views, given the existing and proposed hedgerows, such that adverse effects for those users would be minor.
16. The effects on all receptors would reduce over time with the establishment of landscaping mitigation. However, new dwellings would not be fully screened, and the effects after 15 years would be likely to be reduced by no more than a degree in each of the above scenarios.

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<sup>1</sup> Swale Landscape Character and Biodiversity Appraisal (2011)

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#### *Policy*

17. Paragraph 174 of the Framework requires amongst other things that valued sites be protected and enhanced in accordance with its identified quality in the development plan. Policy DM24 (Conserving and Enhancing Valued Landscapes) states that within the AHLV planning permission will be granted subject to two criteria. The first is that the landscape be conserved and enhanced. Regardless of the varying values of landscapes across the AHLV, it is self-evident that building residential development on this valued landscape would not conserve or enhance it.
18. Even so, the second criterion requires the avoidance, minimisation and mitigation of adverse landscape impacts, or that any significant remaining impacts should be balanced against the social and economic benefits. My conclusions on the benefits of the proposal are set out later in this decision. Given the initial and residual harms I have already identified, my planning judgement is that the social and economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape value of the AHLV. Therefore, despite the harm, the proposal would comply with the requirements of policy DM24 and, consequently, paragraph 174 of the Framework.
19. The site is also within an ILCG as set out in policy DM25 (The Separation of Settlements – ILCGs) of the LP. The key objective of this policy is to maintain the separation of settlements, and the appeal proposal would not significantly erode this separation given the distances involved. However, the parties agree that the proposal would undermine the second and third identified purposes of the policy. That is, the development would neither safeguard the open and undeveloped character of the area, nor would it prevent encroachment or piecemeal erosion or changes to the rural open character.

#### *Effect on heritage asset*

20. At the inquiry, both main parties also agreed with the Council's conservation officer that the proposal would cause less than substantial harm, at the lower end of the scale, to the Grade II listed Chilton Manor by way of impact upon its setting. The Framework requires this harm to be weighed against the scheme's benefits, to which I return later.

#### *Conclusion on character and appearance*

21. Overall, I find that the proposal would have a moderate adverse effect on the character and appearance of the area, with particular regard to the effect on the landscape and the ILCG designation. The proposed development therefore conflicts with policy DM25 of the LP, as well as policies ST1, ST3, ST5, DM14, and CP7, aspects of which require development to protect, conserve or enhance the landscape.

#### *Location*

22. The spatial strategy is expressed primarily in policies ST3 (Swale settlement strategy) and ST5 (Sittingbourne area strategy) of the LP. Policy ST3 directs that development will not normally be permitted in the open countryside outside the built-up area boundaries. Policy ST5 identifies the main urban centre in the borough as Sittingbourne, which will provide the primary urban focus for growth and town centre regeneration with housing to be provided

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- within urban confines, or extensions to the settlement, where indicated by proposed allocations.
23. The proposals map for Sittingbourne identifies the defined built-up area boundaries. The appeal site lies adjacent to but wholly outside of this settlement boundary. The proposal is therefore in conflict with these development plan policies. However, there are a number of factors that reduce the weight to be given to that conflict, as follows.
24. The settlement boundaries are deemed to be out of date by virtue of the Council not being able to demonstrate a five year supply of deliverable housing sites and application of footnote 8 of the Framework. Furthermore, as the LP is more than five years old and has not been reviewed, the housing requirement calculated using the standard method is currently some 39% higher than that indicated in the LP. On that basis, the Council accepted at the inquiry that, as this increased requirement could not be accommodated within the 2017 settlement boundaries, those boundaries are also substantively out of date. It follows that the boundaries will therefore need to be applied flexibly.
25. The Strategic Housing Land Availability Assessment (2020)(SHLAA) identified the appeal site as suitable for development, and achievable, albeit that this document is only a high-level assessment of limited weight. The subsequent Local Plan Review Site Selection (2020)(LPRSS), also of limited weight, indicates that, even though development of the appeal site would dilute the ILCG and impact on a sensitive landscape, there is potential to progress the site. Ultimately members rejected allocation of the appeal site, but they did so on the basis of information that was at least partially factually inaccurate.<sup>2</sup>
26. The LP describes challenging landscape constraints around Sittingbourne, indicating that land to the south of the settlement has low capacity to accommodate change (as does the north, whilst the east has moderate capacity and the west has higher capacity). However, the more recent eLP also explores these constraints.<sup>3</sup> It proposes a strategy that focuses development to the east and west but acknowledges that there are limited opportunities to allocate development on unconstrained land. Although the eLP attracts only limited weight and the spatial plan indicates only high-level constraints, it nonetheless identifies the appeal site as being within a less constrained area.
27. Consequently, the eLP recognises that some difficult choices will need to be made. Those options should properly be explored as part of the emerging development plan. However, the new local plan is, according to the Council, a minimum of two years away from adoption. In the meantime, the current appeal requires to be determined in light of the prevailing circumstances.
28. Overall, due to the conflict with policies ST3 and ST5 of the LP, the site is not a suitable location for the proposed development having regard to the Council's development strategy. National policy requires local planning authorities to identify a minimum of five years' worth of housing. Given that the Council cannot do so, these policies are of reduced, but still significant, weight. The conflict with these policies caused by the proposal attracts moderate weight for the above reasons.

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<sup>2</sup> The Cabinet Meeting minute for 16 December 2020 records that the appeal site was not progressed partly because the site was part of the Area of Outstanding Natural Beauty. It is not.

<sup>3</sup> Having regard to the Local Landscape Designation Review and Landscape Sensitivity Study.

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#### *Agricultural land*

29. The LP explains that fruit growing remains synonymous with the borough, the area having been a centre of cultivated fruit since the 16<sup>th</sup> Century. To this end, policy DM31 states that development will only be permitted on agricultural land when there is an overriding need that cannot be met within the built-up boundaries. In light of the housing land supply shortfall, the Council agree that there is an overriding need for housing development.
30. The appeal site contains some 4.3 hectares of best and most versatile agricultural land (BMV), in respect of which policy DM31 further stipulates that development will not be permitted except in specific circumstances. Those circumstances include where there is no alternative site on land of lower agricultural grade or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development. The appellant has carried out two option assessments against local plan review sites, but the Council remain to be convinced that there are no alternative sites, with specific reference to three potential alternatives.
31. Firstly, the appellant's assessments exclude urban land. Whilst policy DM31 is principally concerned with the development of agricultural land, there is nothing to suggest that assessment of alternative sites should not include urban land. Indeed, inclusion of brownfield sites would be consistent with the LP settlement strategy and the broader objectives of sustainable development. The LPRSS indicates that there is potential for some 850 units within the settlement of Sittingbourne. These sites form part of what is described as being a major programme of regeneration in the town centre and fringes, and were subsequently endorsed by the Cabinet.
32. Secondly, the site at Rushenden South is also identified in the LPRSS and endorsed by the Cabinet as being suitable and sustainable for some 850 units, despite some high level constraints including land at high risk of flooding. Although Rushenden South may be less sustainable than the appeal site due to its location on the Isle of Sheppey, it is located within the Thames Gateway regeneration area which seeks to make the Isle a key focus for growth.
33. The third potential alternative is at land east of Queenborough. Whilst identified in the SHLAA as suitable and deliverable, the LPRSS notes the site as being partly at high risk of flooding, within an ILCG which would erode separation between Minster and Queenborough, and highly prominent in the landscape. The LPRSS concludes that this site should not be progressed. Furthermore, this site has only been identified as being Grade 3, without distinguishing between Grades 3a and 3b. Consequently, it is not clear whether this site would indeed comprise an alternative site of lower agricultural value.
34. The evidence therefore suggests that there are alternative sites, within the built-up area of Sittingbourne and at Rushenden South, that are suitable and sustainable, and which would be of lower grade agricultural land than the appeal site. Taken together these could potentially deliver some 1,700 units.<sup>4</sup> Furthermore, the proposal would result in a material loss of BMV, and this is in itself harmful, even though this would result in the loss of only a very small percentage of the overall BMV land in Swale.

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<sup>4</sup> Against a total undersupply of 202 units (according to the Council) or 1,806 units (as asserted by the appellant).

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35. Overall, the proposal would have a moderate adverse effect on agricultural land and conflict with policy DM31 of the LP, as well as policies ST1 and ST5 which broadly support policy DM31.

**Other considerations**

36. The appeal site is within the 6km buffer of the Swale and Medway Estuary and Marshes Special Protection Area and Wetland of International Importance Ramsar sites (the Sites), which are afforded protection under the Conservation of Habitats and Species Regulations 2017. The Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (2014) (SAMMS) indicates that new development is likely to increase recreational activity and cause disturbance impacts to birds at the Sites. The proposed dwellings, in combination with other projects, are therefore anticipated to have likely significant effects on the Sites.
37. An appropriate assessment has already been carried out by the Council. This concludes that a contribution should be secured to provide the mitigation required by the SAMMS. Natural England have indicated that, subject to securing the appropriate contribution, the proposal will mitigate against the potential recreational impacts of the developments. A topic statement of common ground has been submitted to the inquiry agreeing the position between the main parties on these matters. No new environmental evidence or changes to the scheme have emerged since that time. Consequently, as competent authority, I adopt the Council's appropriate assessment.
38. Local residents raised various concerns regarding transport. Whilst existing traffic delays in the locality cannot be resolved by the appeal proposal, the Council are satisfied, having considered the Transport Assessment and related evidence, that the proposed development would not result in a severe impact on the local highway network. The Council is also satisfied that the proposed pedestrian and cycling improvements would facilitate sustainable access to local facilities. I see no substantive evidence to find otherwise.
39. Any vibration caused by construction traffic on Swanstree Avenue could be adequately addressed by the Construction Management Plan. Repairing existing potholes is not a matter for this appeal but a maintenance issue for the local highways authority. Concerns regarding the lack of footway on Highsted Road would be satisfactorily addressed by the below obligation, as would the representations about oversubscribed surgeries and schools. Finally, although several other proposals at the planning application stage were cited by the Council, it accepted at the inquiry that no weight should be given to these.

**Planning obligation**

40. The contribution to air quality mitigation measures, along with an electric vehicle car club scheme, is necessary following agreement of pollution damage costs. Contributions for healthcare, community learning, youth services and social care would expand local health, youth and specialist care facilities and improve adult education services, to meet demand generated by occupants of the development. Contributions for formal sports facilities within 5km of the site, and for play and recreation facilities within the vicinity of the site, would meet the recreational needs of occupants. Highways improvements would be secured as a result of additional traffic and pedestrian impacts from the development, comprising; Highsted Road pedestrian footway and safety

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scheme; improvements to the A2/Rectory Road junction and the A2/Swanstree Avenue junction; and improvements to footpaths ZU30, ZU31 and ZU35.

41. Contributions towards primary and secondary schools, and land acquisition for new schools in Northwest Sittingbourne and/or Sittingbourne South, arise from the additional pupils generated by the development. A libraries contribution would meet the demands of additional borrowers. Waste and wheelie bin contributions are required to meet the waste and recycling needs of occupants. A SPA contribution is necessary to mitigate disturbance to birds and meet the requirements of the SAMMS, as above.
42. The provision of 30% affordable housing exceeds the 10% requirement under policy DM8 of the LP. Whilst this uplift is not necessary as a result of the development, it is a benefit of the scheme which I have taken into account. Tenure would be split, at 25% First Homes at a price cap of £250,000 and 75% social rented, which the Council agree meets the needs of the area. The open space obligation is necessary to secure the management and maintenance of open space on the development site. Monitoring fees are also provided for as set out in the Council's Developer Contributions SPD.
43. For the above reasons, I am satisfied that the obligations are necessary, directly related to the development, and fairly related in scale and kind, and comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 57 of the Framework.

#### **Conditions**

44. A list of suggested conditions was submitted, which were discussed at the inquiry and have been agreed by the appellant, including pre-commencement conditions. Amendments have been made to the wording of some conditions for clarity, brevity, or to avoid duplication with other conditions, and to ensure accordance with the tests set out in paragraph 56 of the Framework. Reasons are also provided in the attached schedule.
45. A suggested condition to incorporate noise mitigation into the building specification has not been substantively justified and therefore has not been included. A condition for electric vehicle charging is not necessary because it would duplicate amendments to Building Regulations.

#### **Planning balance and conclusion**

46. Looking at the benefits of the proposal, the parties agree that substantial weight should be given to the provision of market housing and 30% affordable housing and the contribution that would be made to supply in the region. I see no substantive reason to disagree. Economic benefits, including from direct and indirect jobs created by the proposal, attract moderate weight. Green infrastructure and open space would provide some benefits for the wider community, and this is afforded limited weight. Provision of improved pedestrian and cycle facilities, along with an electric vehicle car club scheme, would be available for wider community use, and is of limited weight. Biodiversity net gain would be secured but has not been quantified, hence only attracting very limited weight.
47. Turning to the harms arising from the development, I have already found that a moderate level of landscape and visual harm would be caused. The development would also conflict with the ILCG designation, to which I attach



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- moderate weight. The conflict with the locational policies of the development plan are also afforded moderate weight, and moderate weight is also given to the loss of BMV and conflict with policy DM31.
48. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. For the above reasons, the proposed development is in conflict with development plan policies and with the development plan as a whole.
49. The Framework is a material consideration, and this states that decisions should apply a presumption in favour of sustainable development. The Council is unable to demonstrate that it has a five year housing supply. The Council is taking steps to address this shortfall and some of the reasons for the shortfall are not within the control of the Council. Nonetheless, paragraph 11(d) of the Framework indicates that the policies which are most important for determining the application should be considered as out of date.
50. In terms of Footnote 7 of paragraph 11(d)(i) of the Framework, the less than substantial harm to the significance of Chilton Manor Farm, by way of impact on its setting, should be weighed against the public benefits of the proposal as required by paragraph 202 of the Framework. Paragraph 199 advises that when considering the impact of the development on the significance of designated heritage assets, great weight should be given to the asset's conservation. The public benefits identified above decisively outweigh this harm. Accordingly, there are no policies in the Framework of relevance to this appeal that protect areas or assets of particular importance that provide a clear reason for refusal, and the so called 'tilted' balance of paragraph 11(d)(ii) of the Framework is engaged.
51. Drawing together the above harms and benefits, even though the Council's stated housing land supply shortfall is small and alternative sites of lower grade agricultural land may be available, the adverse effects of the proposed development would not significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development. Although the proposal would conflict with the development plan as a whole, material considerations indicate a decision other than in accordance with it.
52. My overall planning balance concludes in favour of the development on the basis of the Council's housing supply position of 4.8 years. Therefore, even though the appellant contends that this is overstated, asserting it to be 3.4 years, it is not necessary for me to reach a finding on this dispute, regardless of any additional weight that may accrue from a reduced supply.

### **Conclusion**

53. I conclude that planning permission should be granted subject to the conditions in the attached schedule.

*Patrick Hanna*

INSPECTOR

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### APPEARANCES

#### FOR THE APPELLANT

Zack Simons and Isabella Buono of Counsel, instructed by Christien Lee

They called

Gary Holliday BA(Hons) MPhil FLI	FPCR Environment and Design
Ben Pycroft BA(Hons) DipTP MRTPI	Emery Planning
Christien Lee BSc(Hons) MCD MRTPI	Gladman Developments
Rachel Goddard (obligation session)	Gladman Developments

#### FOR THE LOCAL PLANNING AUTHORITY

Isabella Tafur of Counsel, instructed by Russell Fitzpatrick

She called

Jon Etchells MA BPhil CMLI	Jon Etchells Consulting
Stuart Watson BA MSc MRTPI	Principal Policy Officer
William Allwood BA(Hons) DipTP MRTPI	Team Leader
Cheryl Parks (obligation session)	Solicitor

#### INTERESTED PARTIES

Cllr Monique Bonney	Ward Councillor
Cllr Tim Gibson	Ward Councillor
Rebecca Kemp	Local resident
Maryna Baxter	Local resident
Lee Baxter	Local resident

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#### **DOCUMENTS SUBMITTED DURING THE INQUIRY**

1. Opening statement for the Council
2. Opening statement and appearances for the appellant
3. Swale Borough Council Selected Designated Areas with Allocations Dwg No 06302-FPCR-XX-XX-DR-L-0007-P01
4. Thames, Medway & Swale Estuaries - Strategic Access Management and Monitoring Strategy
5. Habitats Regulations Assessment Bearing Fruits 2031 (June 2016)
6. Habitats Regulations Assessment Screening Bearing Fruits 2031 (April 2015)
7. Further Information on Thames Estuary SPA, Ramsar, HRA and AA
8. Thames Estuary & Marshes SPA EC Directive 74-409 on the Conservation of Wild Birds
9. European Site Conservation Objectives for Thames Estuary and Marshes SPA
10. Supplementary Advice Note on Thames Estuary and Marshes Conservation Objectives
11. Swale Housing Supply SOCG dated 8 March 2023
12. Swale Housing Supply Scott Schedule dated 8 March 2023
13. Issues and Preferred Options (October 2021)(full version)(CD6.07)
14. Bearing Fruits 2031 Swale Borough Local Plan (July 2017)(full version)(CD5.01)
15. Agreed Draft List of Conditions dated 9 March 2023
16. CIL Compliance Schedule dated 9 March 2023 (and KCC appeal statement)
17. Open Spaces and Play Area Strategy 2018-2022
18. Bird Wise North Kent Mitigation Strategy
19. Developer Contributions SPD (2009)
20. Closing submission for the Council
21. Closing submission for the appellant
22. Updated CIL Compliance Schedule (submitted after the inquiry)
23. Signed s106 Deed of Agreement dated 14 March 2023 (submitted after the inquiry)

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#### SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.  
*REASON: As required by s92 of the Town and Country Planning Act 1990.*
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.  
*REASON: As required by s92 of the Town and Country Planning Act 1990.*
3. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.  
*REASON: As required by s92 of the Town and Country Planning Act 1990.*
4. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Drawing Reference 06302-FPCR-ZZ-ZZ-DR-L-0003 and Access Drawing Reference 1464/18/C.  
*REASON: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application.*
5. The details submitted pursuant to Condition 1 shall be in general accordance with the indicative development framework (reference 06302-FPCR-ZZ-ZZ-DR-L-0002-P07).  
*REASON: To ensure that the development is carried out in accordance with the development parameters submitted with the application.*
6. The quantum of residential units to be constructed for the development hereby approved shall be limited to a maximum of 135 units.  
*REASON: To ensure that the development is carried out in accordance with the development parameters submitted with the application.*
7. The details submitted pursuant to Condition 1 shall include plans and sections indicating, as appropriate, the levels, gradients and method of construction.  
*REASON: To ensure that the development is satisfactorily designed and constructed.*
8. The details submitted pursuant to Condition 1 shall include details demonstrating how the development meets the principles of Secured by Design. The development shall be carried out in accordance with the approved details.  
*REASON: In the interests of crime reduction and safety.*
9. With the first reserved matters application a detailed reptile mitigation strategy shall be submitted to and approved by the local planning authority. The strategy will include timings in accordance with any planned phasing of construction and a site plan showing retained areas to be safeguarded during construction. The development shall be carried out in accordance with the approved details.

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*REASON: In the interests of protected species.*

10. The details submitted pursuant to Condition 1 shall include a lighting design plan for biodiversity. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. The development shall be carried out in accordance with the approved details and maintained thereafter.

*REASON: To protect ecological habitats.*

11. The details pursuant to Condition 1 shall include a Landscape and Ecological Management Plan, which shall include the following:
- (a) description and evaluation of features to be managed (including a planting schedule);
  - (b) ecological trends and constraints on site that might influence management;
  - (c) aims and objectives of management;
  - (d) appropriate management options for achieving aims and objectives;
  - (e) prescriptions for management actions, together with a plan of management compartments;
  - (f) preparation of a work schedule (including an annual work plan);
  - (g) details of the body or organisation responsible for implementation of the plan; and
  - (h) ongoing monitoring and remedial measures.
- The development shall be carried out in accordance with the approved details.

*REASON: To manage biodiversity on site.*

12. The details submitted pursuant to Condition 1 shall include details of how the development will achieve a net biodiversity gain. This will include a native species-only landscape scheme, integrated bird bricks and details of the degree of biodiversity net gain. The development shall be carried out in accordance with the approved details and be maintained thereafter.

*REASON: To increase biodiversity on site.*

13. Prior to the commencement of the development hereby approved an arboriculture method statement and tree protection plan in accordance with BS5837:2012 shall be submitted to and approved in writing by the local planning authority. The approved arboriculture method statement and tree protection plan shall be adhered to throughout the construction phase of the development.

*REASON: To protect trees during construction.*

14. The details submitted pursuant to Condition 1 shall include an updated Landscape Strategy. The landscaping shall be comprised of native species only. The strategy shall include a programme for implementation and shall be implemented in accordance with this strategy and maintained as such thereafter.

*REASON: In the interests of visual amenity and ecology.*

15. No development shall take place prior to the implementation of a programme of archaeological work in accordance with a written specification and timetable which shall have been submitted to and approved by the local planning

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

*REASON: To ensure archaeological investigation of the site.*

16. No construction work (excluding impact pile driving dealt with by Condition 17) in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730 to 1800 hours and Saturdays 0800 to 1300 hours, unless in association with an emergency.

*REASON: To protect living conditions of occupants of neighbouring properties.*

17. No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday, or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0900 to 1700 hours, unless in association with an emergency.

*REASON: To protect living conditions of occupants of neighbouring properties.*

18. Piling or any other foundation designs using penetrative methods shall not be undertaken other than with the written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater that shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

*REASON: To prevent pollution of groundwater resources.*

19. No development approved by this planning permission shall commence until a strategy to deal with any potential risks associated with contamination of the site shall have been submitted to and approved in writing by the local planning authority. The strategy will include the following components:

- (a) A preliminary risk assessment which has identified: all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways, and receptors; and potentially unacceptable risks arising from contamination at the site;
- (b) A site investigation scheme based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
- (c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (b). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance, and arrangements for contingency action.
- (d) A verification report shall be submitted upon completion of the works and shall include full verification details as set out in the verification plan. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site.

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

*REASON: To mitigate risks from ground contamination.*

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

*REASON: To protect living conditions of occupants of neighbouring properties.*

21. Development shall not commence in any phase until a detailed sustainable surface water drainage scheme for the site shall have been submitted to and approved in writing by the local planning authority. The scheme shall be based upon the Flood Risk Assessment Ref SHF.1132.260.HY.R.001.B dated October 2021 and follow up letter ref SHF.1132.260.HY.L.001.B by Enzygo Ltd and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the site without increase to flood risk on or off-site. The scheme shall also demonstrate with reference to published guidance:

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

The development shall be carried out in accordance with the approved details and no building on any phase of the development hereby permitted (or within an agreed implementation schedule) shall be occupied until a Verification Report pertaining to the surface water drainage system and prepared by a suitably competent person shall have been submitted to and approved by the local planning authority.

*REASON: To ensure satisfactory drainage of the site.*

22. Prior to the commencement of the development details of the proposed means of foul sewerage disposal shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and maintained as such thereafter.

*REASON: To ensure satisfactory foul drainage of the site.*

23. The details submitted pursuant to Condition 1 shall include a scheme of highway works along Highsted Road/Swanstree Avenue, as indicatively shown on drawing number 1464/21 Rev A. The development shall be carried out in accordance with the approved details.

*REASON: In the interests of sustainable travel.*

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24. No development shall take place including any works of demolition until a Construction Traffic Management Plan shall have been submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to throughout the construction period.

*REASON: In the interests of highway safety and to protect living conditions of occupants of neighbouring properties.*

25. The details submitted pursuant to Condition 1 shall provide details of the provision of residential vehicle parking and turning space in accordance with the Swale Borough Council Parking Standards (May 2020); and the provision for one secure and sheltered bicycle store for each dwelling within the site. The development shall be implemented in accordance with the approved details.

*REASON: In the interests of highway safety and sustainable travel.*

26. No dwelling shall be occupied until that part of the road which provides access to it shall have been constructed in accordance with the approved plans, including carriageways and footways (with the exception of the wearing course), highway drainage and street lighting. The road as constructed shall be retained thereafter.

*REASON: In the interests of highway safety.*

27. Development shall not commence until details of fixed telecommunication infrastructure and high-speed fibre optic connections to all residential buildings shall have been submitted to and approved by the local planning authority. The infrastructure and connections shall be installed in accordance with the approved details prior to occupation of any respective residential building and maintained thereafter.

*REASON: To ensure utility provision meets local needs.*

28. Prior to the first occupation of the development, a Full Travel Plan (FTP) based on the principles set out in the Travel Plan dated March 2021 shall have been submitted to and approved in writing by the local planning authority. The FTP shall as a minimum include:

- (a) measures for promoting sustainable modes of travel to residents of the development;
- (b) arrangements for monitoring and reviewing the FTP's objectives including the appointment of a travel plan co-ordinator;
- (c) travel information packs for the first occupiers of each completed dwelling; and
- (d) measures for disseminating updated sustainable travel information and FTP updates to residents for the lifetime of the plan.

The FTP shall be implemented in accordance with the approved details.

*REASON: In the interests of sustainable travel.*

29. No development shall commence until a site-wide phasing plan has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the provisions of the approved phasing plan.

*REASON: To ensure satisfactory phasing of the site.*

End of Schedule