

<b>2.5 REFERENCE NO. 22/505076/OUT</b>		
<b>PROPOSAL</b> Outline application for the erection of up to 42no. residential dwellings, including open space, drainage, infrastructure and other associated works (Access being sought).		
<b>SITE LOCATION</b> Land at Pheasant Farm, Bramblefield Lane, West of Iwade Bypass, Sittingbourne Kent ME9 8QX		
<b>RECOMMENDATION</b> Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the completion of a Section 106 agreement as set out in the report, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be consequently necessary and appropriate.		
<b>APPLICATION TYPE</b> Major (Outline)		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Recommendation of Head of Planning conflicts with written representation received from Parish Council		
<b>Case Officer</b> Simon Greenwood		
<b>WARD</b> Bobbing, Iwade and Lower Halstow	<b>PARISH/TOWN COUNCIL</b> Bobbing	<b>APPLICANT</b> E. H. Nicholls Holdings Ltd  <b>AGENT</b> DHA Planning
<b>DATE REGISTERED</b> 21 November 2022	<b>TARGET DATE</b> 20 December 2024	
<p><b>BACKGROUND PAPERS AND INFORMATION:</b> Documents referenced in report are as follows: -</p> <p>60624620-04001 Rev. C Parameter Plan Land Use 60624620-04003 Rev. D Indicative Layout Design Principles 17161-DP01</p> <p>All drawings submitted All representations received</p> <p>The full suite of documents submitted pursuant to the above application are available via the link below: -</p> <p><a href="https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=RK3ZBOTYFGU00">https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=RK3ZBOTYFGU00</a></p>		

## 1. SITE LOCATION AND DESCRIPTION

- 1.1. The approx. 1.8ha irregular (but roughly rectangular) shaped application site is located on Sheppey Way within Howt Green.

- 1.2. The site is relatively flat and comprises a combination of hard surfacing, grass and scrub. There is fencing to the western and southern boundaries and mature trees along the eastern boundary which separate the site from the A249. There is hedging along the northern boundary which separates the site from an agricultural field which is also within the applicant's ownership.
- 1.3. The site has accommodated various temporary uses over the last 25 years or so and has not been in agricultural use during this time. It has been used as a contractor's compound in relation to the construction of A249 and more recently used in relation to overhead power line works. The application also indicates that the site has been in use as a depot and for open storage. The site is currently predominantly disused; however, there is a portacabin, water tank, vehicle parking and some open air storage within the southern part of the site adjacent to the access. However, the lawful use of the site is agriculture.
- 1.4. The surrounding area is characterised by sporadic residential, agricultural, commercial and community uses and buildings of varying forms.
- 1.5. Immediately to the south of the site, running past the site's entrance, is Bramblefield Lane, a designated cycle/footpath which leads to a footbridge over the A249 and connects with the B2005, and which forms part of National Cycle Route Network Route 1.
- 1.6. Kemsley train station is located 800m away (to the south-east), over the A249 footbridge.
- 1.7. The site falls entirely within Flood Zone 1 where a low probability of flooding from rivers and the sea is anticipated.
- 1.8. There is a Grade II listed building (Pheasants Farmhouse) which fronts Sheppey Way directly opposite the site.
- 1.9. The site is located outside any defined settlement boundary. The site is not subject to any landscape designation; however, it is designated within the Local Plan as part of the Important Local Countryside Gap (ILCG).

## 2. PLANNING HISTORY

- 2.1. Outline planning permission was refused in February 2021, a time when the Council was able to demonstrate a 5 year housing land supply, for the erection of up to 51 residential dwellings including a minimum 40% affordable housing, open space, drainage infrastructure and other associated works on grounds (ref. 20/504794/OUT). The first 3 grounds of refusal, which are repeated in full as this decision is an important consideration in assessing the current application, were as follows:
  - The proposed development would fail to protect the intrinsic value, tranquillity and beauty of the countryside and rural context - together with harm to the open character of the Important Local Countryside Gap - by virtue of its location outside any well-defined urban boundary and within the defined Important Local Countryside Gap. The proposal would also result in the

creeping coalescence of adjoining settlements 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 and DM25 of the "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and would be contrary to paragraphs 8, 11, 79, 127, 130 and 170 of the National Planning Policy Framework.

- The lack of the prospect of residents being able to integrate with the existing communities and the limited public transport to service the site, which will result in a car dependent population, means that the proposed development represents unsustainable development and, therefore, fails to comply with the requirements of paragraph 8 and 79 of the National Planning Policy Framework 2019. 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 and DM25 of the "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and would be contrary to paragraphs 8, 11, 79, 127, 130 and 170 of the National Planning Policy Framework.
  - It has not been demonstrated that the proposal would not result in harm to the setting or significance of Grade II listed Pheasants Farmhouse. The proposal would not comply with paragraphs 193 and 194 of the National Planning Policy Framework which states that 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification'. As such the proposal would be contrary to policy DM32 of "Bearing Fruits 2031: The Swale Borough Local Plan (2017)" and paragraph 193-194 of the National Planning Policy Framework (2019).
- 2.2. The application was also refused on grounds relating to insufficient information to ensure that visibility splays always remain clear and the lack of a legal agreement to secure relevant planning obligations.
- 2.3. Planning permission was granted in October 2024 for the change of use of the adjacent land to the north-east of the application site to equestrian use for a commercial livery yard. The scheme comprised the erection of a stable and therapy barn, a storage barn, and the creation of an all-weather riding arena, with associated access, landscaping and other works (ref. 23/502305/FULL).
- 2.4. An application for a lawful development certificate for an existing use for the stationing of portable office buildings was refused in October 2009 (ref. SW/09/0759). It was considered that the applicant had failed to demonstrate, on the balance of probabilities, that the use of the site had taken place for a continuous period of 10 years prior to the application.

- 2.5. An application for a lawful development certificate for a road contractors depot and storage was refused in March 2008 (ref. SW/08/0090). It was considered that the applicant had failed to demonstrate, on the balance of probabilities, that the use of the site had taken place for a continuous period of 10 years prior to the application. A similar application for the same use had been previously refused on the same grounds in December 2007 (ref. SW/07/1179). The decisions noted that the use had benefitted from deemed planning permission for the period 2003-2007 and the use of the site for this time did not contribute to the period after which such an unauthorised use would become lawful.
- 2.6. Outline planning permission was refused in November 1997 for a distribution and transport facility with associated offices (ref. SW/97/0621). The reason for refusal is not known as the decision notice is not available.

### **Appeal History**

- 2.7. A joint appeal relating to applications refs. SW/08/0090 and SW/07/1179 which sought a lawful development certificate for a road contractors depot and storage was dismissed in April 2009 (refs. APP/V2255/X/08/2077462 and APP/V2255/X/08/2076431). The inspector agreed with the Council that the appellant had not demonstrated that, on the balance of probabilities, the use had taken place for a continuous period of 10 years prior to the applications.

### **Nearby Sites**

- 2.8. Planning permission was granted in December 2020 for 155 dwellings with associated development at land adjacent to Quinton Farm House, Quinton Road, Sittingbourne (ref. 18/500257/EIFUL). The consent relates to part of the site allocated under Local Plan MU1.
- 2.9. The Council resolved to grant hybrid planning permission in March 2021 for the erection of 1,190 dwellings (348 in detail), secondary school, primary school, mixed use centre, open space and other associated works at land north of Quinton Road, Sittingbourne (ref. 18/502190/EIHYB). A decision notice has not yet been issued as negotiations relating to the Section 106 legal agreement remain ongoing; however, it is understood that the agreement is nearing completion. The application relates to part of the site allocated under Local Plan policy MU1.
- 2.10. Outline planning permission was granted in July 2021 for up to 115 dwellings and supporting infrastructure at land at Great Grovehurst Farm, Grovehurst Road, Sittingbourne (ref. 18/502372/EIOUT). The consent relates to part of the site allocated under Local Plan policy MU1.
- 2.11. A hybrid planning application was approved in September 2021 which included outline planning permission for 19 residential dwellings at Halfway Egg Farm, Featherbed Lane, Sittingbourne (ref. 18/506677/HYBRID). It is noted that the site was located in open countryside and within the Important Local Countryside Gap.

- 2.12. Planning permission was granted in July 2022 for the erection of 69 dwellings with associated works at land at Pond Farm, Grovehurst Road, Iwade (19/501332/FULL).
- 2.13. A hybrid planning application was approved in July 2022 which included outline planning permission for up to 466 dwellings and a community hall at land east of Iwade, Iwade, Kent (ref. 19/503974/HYBRID).
- 2.14. An outline planning application was received November 2022 for a mixed use development comprising up to 2,500 dwellings, a 4.99ha commercial employment zone including doctors surgery, a 4.2ha sports hub, primary school, community facilities, local retail provision, public open space, children's play areas and associated development at land west of Bobbing, Sittingbourne (ref. 22/503654/EIOU). The application is currently under consideration. The indicative Masterplan proposes development close to the site on the opposite side of Sheppey Way.
- 2.15. Outline planning permission was granted in November 2023 for up to 16 residential units at Bobbing Car Breakers, Sheppey Way, Bobbing (ref. 20/502715/OUT).

#### **Other relevant cases**

- 2.16. Outline planning permission was granted at appeal for up to 135 dwellings at Land off Swanstree Avenue in May 2023 (LPA ref. 21/505498/OUT; PINS ref. APP/V2255/W/22/3311224). The site was located within the ILCG and the Inspector noted that the development would undermine two purposes of the ILCG in that it 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. In assessing the planning balance the Inspector attached moderate weight to the conflict with the ILCG designation and moderate weight to the conflict with the Swale Settlement Strategy.
- 2.17. Outline planning permission was granted at appeal for up to 290 dwellings at Land at Ufton Court Farm in July 2024 (LPA ref. 22/505646/OUT; PINS ref. APP/V2255/W/23/3333811). The site was located within the ILCG and the Inspector identified that the development would result in modest harm in terms of the ILCG purposes to safeguard the open and undeveloped character of the area and to prevent encroachment or piecemeal erosion or changes to the rural open character. In assessing the planning balance the Inspector attached limited weight to the conflict with the ILCG designation and limited weight to the conflict with the Swale Settlement Strategy.

### **3. PROPOSED DEVELOPMENT**

- 3.1. Outline planning permission is sought for the for the erection of up to 42 residential dwellings, including open space, drainage, infrastructure and other associated works. Approval of access to the site is sought with all other matters reserved.

3.2. The application is accompanied by an indicative layout plan which shows 42 houses sited within and around a roughly rectangular shaped road. The layout shows a mixture of detached, semi-detached and terraced properties with open space to the eastern part of the site. Access to the site would be via Bramblefield Lane. Approval of layout is not being sought at this stage and the applicant has submitted a Design Principles document which is intended to inform a revised layout of development at Reserved Matters stage. However, the indicative layout is considered to satisfactorily demonstrate that the site can accommodate 42 residential units.

#### 4. CONSULTATION

4.1. One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper in accordance with statutory requirements.

4.2. One letter of representation was received in relation to the consultation. Concerns/ comments were raised in relation to the following matters: -

<b>Comment</b>	<b>Report reference</b>
Increased traffic on Sheppey Way	Paras. 7.97-7.101
Increased pressure on local infrastructure and services including schools and doctors.	Paras. 7.120-7.122
Increased noise and pollution; Noise and pollution mitigation should be provided.	Para. 7.136
Roads are in a poor state and increased traffic will worsen the situation.	Paras. 7.97-7.101

4.3. Iwade Parish Council objected to the application on the following grounds: -

<b>Comment</b>	<b>Report reference/ clarification</b>
Increased pressure on inadequate local infrastructure and services including healthcare and water.	Paras. 7.120-7.122
Loss of agricultural land.	Paras. 7.31-7.35
Land currently drains onto A249 and Highways England may have concerns.	Para. 7.99 and condition 32

Application indicates that a larger adjacent area is under their control and applicant may intend to submit a further application on this land, further eroding the countryside gap.	Para. 7.151
Appeal decision relating to land at Church Farm, Sheppey Way (ref. APP/V2255/W/16/3153537) identified importance of maintaining a local countryside gap in this area.	Paras. 7.20-7.21

- 4.4. Bobbing Parish Council raised concerns in relation to the application which are summarised as follows: -

Comment	Report reference
Site is within the Local Countryside Gap	Paras. 7.20-7.21
Concern regarding comments made by statutory bodies.	Paras. 5.3-5.19

## 5. REPRESENTATIONS

- 5.1. **Climate Change Officer**:- No objections raised subject to conditions.
- 5.2. **Kent Police**: - No objections raised subject to informatives.
- 5.3. **KCC Ecology**: - Sufficient information has been provided and no objections are raised. Ecological mitigation and enhancements should be secured by condition. Developer Contributions should be secured due to the increase in dwellings within the zone of influence of a Special Protection Area.
- 5.4. **KCC Minerals**:- The probability of any useable mineral deposits being present on the site are limited, though it is not proven that there are no useable safeguarded minerals. However, it is likely that the past development of the land has compromised any viable brickearth extraction. On that basis, KCC raise no objections on land won mineral safeguarding grounds.
- 5.5. **KCC Drainage**:- No objections raised subject to conditions.
- 5.6. **National Highways**:- The proposal would be acceptable in terms of the safety, reliability and operational efficiency of the SRN in the vicinity of the site (A249), subject to conditions. Accordingly, no objections are raised.
- 5.7. **KCC Highways**:- No objections raised subject to conditions and informatives.

- 5.8. **Natural England**:- No objections raised subject to securing appropriate mitigation for recreational pressure impacts on European designated habitat sites.
- 5.9. **Trees Officer**:- No objections raised subject to conditions.
- 5.10. **SBC Conservation**: - The proposal is considered to result in a medium level of less than substantial harm to the agricultural setting of the Grade II listed Pheasant Farmhouse which is located on the opposite side of Sheppey Way.
- 5.11. **SBC Urban Design**: - Concerns were initially raised in relation to the design and layout of the scheme. The applicant submitted details of design principles in response which, noting that approval of layout is not being sought at this time, provides sufficient comfort that a well designed scheme could be secured at reserved matters stage.
- 5.12. **KCC Archaeology**: - The main archaeological potential of the site arises from its location alongside the key route through to the Sheppey crossing and the extensive prehistoric landscapes that are being discovered around Iwade, Bobbing and Kemsley on development sites in recent years. There is potential for archaeological remains from the prehistoric to medieval periods. A programme of archaeological works should be secured by condition.
- 5.13. **Mid Kent Environmental Health**: - No objections raised subject to conditions securing details of noise mitigation measures, a Phase 2 intrusive land contamination investigation and a Code of Construction Practice.
- 5.14. **SBC Housing**: - The 40% (17 units) affordable housing should comprise 90% affordable/social rented tenure housing and 10% shared ownership tenure housing. Swale's Housing Register demonstrates a need for all types and sizes of accommodation for those in housing need in the Sittingbourne area. The number of applications to the Housing Register has significantly increased in the last year and there are now more than 1,800 households in need of affordable rented homes in Swale, with more than 300 households living in temporary accommodation for significant periods of time. Accordingly, the proposed affordable housing would be welcomed.
- 5.15. **Southern Water**: - No objections raised subject to informatives.
- 5.16. **Lower Medway Internal Drainage Board**:- The site is located outside the Board's District; however, it is within catchments which ultimately drain into the Board's district. Discharge of surface water from the site into a watercourse will be subject to a land drainage consent for which a Surface Water Development Contribution fee will be payable. Consent will be subject to the suitability of the receiving drainage network in terms of continuity, capacity and condition.
- 5.17. The Board welcomes the proposals for utilising infiltration techniques and SUDS features for surface water storage such as swales and porous paving
- 5.18. Conditions are requested to secure the following:



- Full scheme for surface water disposal based on SUDS principles and including climate change;
- Verification of surface water drainage scheme once constructed;
- A maintenance schedule for the surface water scheme;
- Management of surface water during the construction phase.

5.19. **Integrated Care Board**:- Financial contribution of £36,228 requested towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.

## 6. DEVELOPMENT PLAN POLICIES

### 6.1. **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017**

- ST 1 Delivering sustainable development.
- ST 2 Development targets for jobs and homes 2014- 2031
- ST 3 The Swale settlement strategy
- ST 4 Meeting the Local Plan development targets
- ST 5 The Sittingbourne area strategy
- CP 2 Promoting sustainable transport
- CP 3 Delivering a wide choice of high-quality homes
- CP 4 Requiring good design
- CP 5 Health and wellbeing
- CP 6 Community facilities and services to meet local needs
- CP 7 Conserving and enhancing the natural environment
- CP 8 Conserving and enhancing the historic environment
- DM 6 Managing transport demand and impact
- DM 7 Vehicle parking
- DM 8 Affordable Housing
- DM 14 General development criteria
- DM 17 Open space, sport and recreation provision
- DM 19 Sustainable design and construction
- DM 21 Water, flooding and drainage
- DM 24 Conserving and enhancing valued landscapes
- DM 25 Local Countryside Gap
- DM 28 Biodiversity and geological conservation
- DM 29 Woodland, trees and hedges
- DM 31 Agricultural land
- DM 31 Development involving listed buildings.

### 6.2. **Supplementary Planning Guidance/Documents –**

- Landscape Character and Biodiversity Appraisal (2011);
- Swale Borough Council's Noise and Vibration Planning Technical Guidance (2020);
- KCC Developer Contributions Guide;
- Developer contributions SPD (2009);
- Swale Landscape Character and Biodiversity Appraisal SPD (2011);

- Parking Standards SPD (2020);
- Planting on New Developments: A Guide for Developers;
- Air Quality Technical Guidance (2021);
- A Heritage Strategy for Swale;
- Guidance for complying with the climate change planning condition to reduce operational carbon of new dwellings in Swale by 50% (2020);
- Kent Design – A Guide to Sustainable Development (2000);
- National Design Guide: Planning practice guidance for beautiful, enduring and successful places (2021);
- Renewable Energy Guide (2014);
- Housing Supply Statement (2022 -2023);
- Open Spaces and Play Area Strategy (2018-2022);
- A Heritage Strategy for Swale (2020).

### 6.3 Strategic Housing Land Availability Assessment

- 6.4 The site was considered under the Council's Strategic Housing Land Availability Assessment (SHLAA) (April 2020) as follows:

*The site is not subject to any high level constraints but is separated from any existing built-up area boundary or settlement. It falls within a minerals safeguarding area and there is a listed building opposite. The site is previously developed land but is now vacant, containing the remnants of fire damaged buildings and hardstanding. There is a public house close to the site but no convenience shops, schools or doctor's surgeries within a reasonable walking distance. Similarly, given the sporadic nature of development here, there are also extremely limited employment opportunities within a reasonable walking distance of the site. As such, travel would be required into Iwade, Sittingbourne and onwards for almost all everyday services and facilities. Cycling is unlikely to be used as a significant means of transport due to the fast moving Sheppey Way which does not have dedicated cycling lanes at this location. There are bus stops on either side of the road here, but this alone does not make a location sustainable. The site is considered unsuitable.*

*The landowner has promoted the site through the 'call for sites' exercise and there is no record of any unimplemented permissions. The site is considered to be available.*

*Subject to further consideration of any utility/infrastructure requirements, there is a reasonable prospect that the site could be developed over a certain period of time. The site is considered to be achievable.*

- 6.5 The site is being considered under the call for sites as part of the emerging Local Plan process and is also being assessed under the next iteration of the SHLAA.

## 7. ASSESSMENT

- 7.1. This application is reported to the Committee because a Parish Council has objected to the proposal.

- 7.2. The main considerations involved in the assessment of the application are:

- The Principle of Development
- Size and Type of Housing
- Affordable Housing
- Landscape and Visual
- Heritage
- Archaeology
- Design of the proposed development
- Ecology
- Transport and Highways
- Air Quality
- Community Infrastructure
- Open Space
- Flood Risk, Drainage and Surface Water
- Contamination
- Living Conditions
- Sustainability / Energy
- Noise.

### **Principle**

- 7.3. 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.
- 7.4. The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

### Local Plan Policy

- 7.5. Local Plan Policy ST1 (4) states that to deliver sustainable development in Swale, all development proposals will, as appropriate, accord with the Local Plan settlement strategy. Local Plan Policy ST3 (5) relates to the settlement strategy and states that at locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 7.6. The supporting text to Policy ST3 states in part that the primary objective of the strategy outside the built-up boundaries will be to protect it from isolated and/or large scales of development. The site lies outside of the built-up area boundaries identified on the Proposals Map and accordingly the proposed development is in conflict with Policies ST 1 and ST 3.

- 7.7. Local Plan Policy ST 5 sets out the Sittingbourne area strategy and states at Part 6 that development proposals will, as appropriate, maintain the individual character and separation of ILCGs around Sittingbourne in accordance with Policy DM 25.
- 7.8. Local Plan Policy CP 2 is concerned with promoting sustainable transport and states, inter alia, that new development will be located in accordance with Policies ST 1 to ST 7 to minimise the need to travel for employment and services and facilitate sustainable transport. It should be noted that the policy is principally concerned with the delivery, improvement and safety of transport infrastructure.
- 7.9. Local Plan Policy CP 3 is concerned with delivering a wide choice of high quality homes and states that development proposals will, as appropriate, be steered to locations in accordance with Policy ST 3. ns which accord with policy ST 3; however, these policies have a wider scope. It should be noted that the policy has a wider scope and is principally concerned with the quality and choice of new housing.
- 7.10. Local Plan policy DM25 is concerned with ILCGs which are identified within the Local Plan and are intended to retain the individual character and setting of settlements. The ICLG is defined, inter alia, as a gap between Sittingbourne and the satellite villages of Bobbing and Iwade. The policy states that within these gaps, unless allocated for development by the Local Plan, planning permission will not be granted for development that would undermine one or more of their purposes. It is noted that Howt Green is not specifically identified as a settlement for which the policy seeks to retain an individual character and setting.
- 7.11. The supporting text to the policy states, inter alia, that:

*With the settlement strategy of the Local Plan focusing development pressures at the major settlements in the Borough, there is a need to prevent the coalescence and the erosion of the intrinsic character of settlements close by.*

*The identity, character, and setting of settlements are formed, in part, by their physical separation from one another. Whilst the use of Landscape Character Assessments assist in safeguarding the intrinsic character and beauty of the countryside, in areas where development pressures could lead to coalescence or erosion of settlement separation, the definition of those gaps provides additional emphasis when considering allocations and development management issues...*

*The purposes of ILCGs (and Policy DM 25) are to:*

- *maintain the separate identities and character of settlements by preventing their merging;*
- *safeguard the open and undeveloped character of the areas;*
- *prevent encroachment and piecemeal erosion by built development or changes to the rural open character; and*
- *influence decisions on the longer-term development of settlements through the preparation and review of Local Plans...*

Background – Policy MU1 (Land at North West Sittingbourne) and Swale Urban Extensions Landscape Capacity Study

- 7.12. Local Plan Policy MU1 allocates Land at North-west Sittingbourne for development comprising a minimum of 1,500 dwellings, community facilities, structural landscaping and open space. The allocation site lies on the opposite side of the A249 from the application site and is identified in the supporting text as part of an ILCG between Sittingbourne and the villages of Iwade and Bobbing, which indicates that this part of the ILCG previously comprised a much wider gap. The supporting text to Policy MU1 at paragraph 6.6.23 references a need to maintain separation between settlements and cites the Swale Urban Extensions Landscape Capacity Study (2010) (SUELC) which formed part of the evidence base for the Local Plan. The Study advises that north of the footbridge crossing the A249 it would be appropriate to conserve the open character of the landscape between settlements. Relevant excerpts are provided for context, transparency and completeness to inform an assessment of the principle of development within this part of the ILCG.
- 7.13. The MU1 site allocation includes a substantial linear park between the new housing and schools and the A249 and paragraph 6.6.5 of the Local Plan notes, inter alia, that:
- Whilst it is a sustainable choice for an extension to the Sittingbourne area, the landscape setting and separate identity of the settlements remains an important consideration for this development. The substantial area of natural and semi natural green space proposed for the western boundary of the site is therefore intended to enable the long term functioning of this land to continue to act as part of the countryside gap.*
- 7.14. The site allocation includes Land at Pheasant Farm, Grovehurst Road/Bramblefield Lane which was the subject of planning application ref. 18/502190/EIHYB and which is addressed in the supporting text to Policy MU1. The commentary notes that the western part of the site is not suitable for development due to the significant adverse landscape impacts that would accompany the erosion of settlement separation between Sittingbourne and Iwade and the small settlements located along the old Sheppey Way. It further notes that this view is endorsed in the Urban Extensions study, which advises that north of the footbridge crossing the A249 it would be appropriate to conserve the open character of the landscape between settlements.
- 7.15. It is therefore noted that a substantial landscape buffer will be provided along the eastern side of the A249 which is intended to reinforce the countryside gap, whilst the application site is located immediately to the north of the footbridge crossing the A249 where the Local Plan identifies that openness should be maintained.
- 7.16. The SUELC identified the site within Study Area 17 which is assessed as having a moderate local landscape sensitivity, a low landscape value and a high capacity to accommodate change. The Study notes that:

*...north of the footbridge which crosses the A249, the landscape forms part of the open space between the separate settlements of Iwade and Sittingbourne. Therefore whilst this landscape relates well to existing development within Sittingbourne and large scale industrial buildings at Kemsley it would perhaps be appropriate to conserve the open character of the landscape between settlements. Retaining this area as open landscape would be particularly important if the boundary of Iwade is extended closer towards the A249...Development would be particularly undesirable west of the A249, in order to retain the rural character, and prevent continuous ribbon development, along the road which passes through Bobbing and Howt Green.*

- 7.17. The SUELC underpins the intent of the Local Plan that the site forms part of a landscape where it may be appropriate to maintain openness. However, it should also be noted that the site and adjoining open land to the north was identified within in Study Area 17 as a potential employment site within the Employment Land Review. The Review dismissed the site for employment use primarily on grounds that it occupied a remote location with no services in the immediate vicinity, rather than impacts on open, rural character.

#### Reappraisal of previous refusal

- 7.18. As noted above, planning permission was previously refused for a larger scheme comprising 51 dwellings on grounds including the loss of Important Local Countryside Gap, conflict with the Swale Settlement Strategy, the unsustainable location of the site, and a lack of information to relating to heritage impacts. The planning history relating to a site is a relevant material consideration in the assessment of any planning application therefore due regard should be had to this previous decision in assessing the current application. The current proposal involves a 9 unit reduction in the quantum of development and increased landscape buffers to the western and northern boundaries of the site which are intended to better integrate the scheme into the rural context and represent a partial response to the previous grounds of refusal. The application is also accompanied by a Heritage Assessment which seeks to address the heritage ground of refusal, and this is considered in the Heritage section of this report.
- 7.19. The Council's present lack of a 5 Year Housing Land Supply (5YHLS) alters the assessment of the current proposal, as covered later in this section. Furthermore, the applicant challenges the Council's assessment of the previous application and makes some pertinent observations. Accordingly, there is merit in re-appraisal of the key issues.

#### Important Local Countryside Gap

- 7.20. The applicant notes that the site has not been in agricultural use for over 25 years and recent historic uses of the site have undermined the open character of the site and its role supporting the purpose of the ILCG. It is noted that these uses were temporary and included storage uses, depots and compounds to support infrastructure projects in the locality. These uses have involved around two thirds of the site being covered by concrete and hardstanding which is likely to have

compromised the soil structure and resulted in potential contamination. Whilst the lawful use of the site is agriculture, the site bears many characteristics of previously developed land. There is some doubt that the site would be returned to agricultural use and there is a likelihood that the site could continue to accommodate temporary uses which would impact upon the open character of the site and undermine the purpose of the ILCG.

- 7.21. The officer's report for the previous scheme identified that the proposal would undermine the principles of the ILCG where residential development would be keenly felt due to the narrowness of the ILCG at this point. The ILCG appears to have previously included the land to the east of the A249 and, prior to the removal of this land from ILCG, would have provided a more substantial rural separation between the built-up areas of Sittingbourne and Iwade and Bobbing. A key consideration is whether the narrowness of the gap and the limited degree of separation it provides between settlements makes it critical that the remaining gap is retained, or whether the function of this part of the gap is already compromised, and the harm arising from the proposed development would be limited. The former view was reached in determining the previous application (ref. 20/504794/OUT), whilst the SUELC and the Local Plan identified merit in maintaining the open character of the land to the west of the A249 and to the north of the Bramblefield Lane footbridge. However, this part of the ILCG lies between two busy roads (the A249 and Sheppey Way) and is characterised by a mixture of residential, commercial and industrial development, particularly to the south of the site, which do not contribute towards the purposes of the gap. The site itself is or potentially will be surrounded by development, including through the development anticipated to come forward under application ref. 18/502190/EIHYB and the livery scheme granted planning permission under application ref. 23/502305/FULL. The site will therefore perform a limited function in terms of the ILCG purpose of safeguarding the open and undeveloped character of the area. The application is accompanied by a Landscape and Visual Impact Assessment (considered later in this report) which identifies that the development would result in a beneficial landscape impact in the longer term. In view of the location of the site in relation to Iwade and Bobbing the proposal would not contribute to the coalescence of these villages with Sittingbourne and would not undermine the purposes of the gap in this regard. It is also noted that the A249 and the cutting it sits within creates a clear separation between the built-up area of Sittingbourne and the villages and smaller settlements to the west such that they would never be viewed as part of Sittingbourne. This sense of physical separation will be enhanced through the development anticipated under application ref. 18/502190/EIHYB which will include a substantial landscape buffer along the A249. Having regard to these considerations, it is considered that there will be a moderate degree of harm arising from development within this part of the ILCG contrary to Local Plan Policies DM 25 and ST 5.

#### Sustainability of site location

- 7.22. The previous application was also refused on grounds that the site occupied an unsustainable location in view of distances to local settlements and amenities,

limited public transport options and impractical walking conditions. Accordingly, it was considered that the proposed development was likely to give rise to a car dependent population.

7.23. The accessibility of the site to nearby settlements and amenities on foot or by bicycle is summarised as follows:

- Approx 1.8km (1.1 miles) to the primary school and local centre at Iwade with no footway along part of route (albeit a new footway for this part of the route has been secured under planning permission ref. 19/503974/HYBRID and partly duplicated under planning permission ref. 20/502715/OUT). The local centre provides a GP's surgery, pharmacy, village hall, pub, primary school, convenience store and nursery;
- Approx. 1.3km (0.8miles) to Bobbing via Sheppey Way with no footway along part of the route;
- Approx. 0.5km (0.3miles) to the edge of north-west Sittingbourne via the footbridge over the A249;
- Approx 1km (0.6 miles) to Kemsley Station, pharmacy, GP's surgery and convenience store via the footbridge over the A249. There is also a primary school, community centre and industrial area providing employment within approx. 2.1km (1.3 miles);
- Approx 0.8km (0.5 miles) to the bus stops on Sheppey Way with no footway along part of route. The bus stops provide access to half hourly services between Sittingbourne and Sheppey;
- Approx 4km (2.5 miles) from Sittingbourne Town Centre.

7.24. In view of the above distances, it is acknowledged that there is some validity to the previous officer's assessment. However, Bramblefield Lane, which forms part of the National Cycle Network Route 1, provides a safe pedestrian/cycle route over the A249 to Kemsley and onward to Sittingbourne. The land north of Quinton Road development proposed under application ref. (18/502190/EIHYB) would straddle Bramblefield Lane on the eastern side of the A249 a short distance from the site and would include a secondary school, primary school, mixed use local centre, land for a convenience store, public open space and children's play areas. The officer's report relating to the previous application identified that the application site is not sufficiently close to the land north of Quinton Road site to realise the benefits of this development without the use of the car. The Bramblefield Lane public footpath/cycle path was assessed as an isolated path with poor levels of surveillance which would discourage its use resulting in some residents opting to make trips by car. It is acknowledged that the footpath/cycleway is not lit which will discourage its use at night and particularly during the winter months. However, it is noted that the footway/cycleway will provide an approx. 0.5km (0.3 mile) route to the new schools and other proposed facilities and amenities whilst the equivalent journey by car will be 4.4km (2.7 miles) to 5.3km (3.3 miles) dependent upon the route. It is therefore considered that walking and cycling will represent an attractive option and the application site will be reasonably sustainably located, particularly when the land north of Quinton Road scheme is brought forward.



7.25. It should also be noted that the Council has accepted residential development on nearby sites. In considering application ref. 20/502715/OUT at Bobbing Car Breakers, located around 50m to the north-west of the site, the planning officer considered travel distances to the settlements of Iwade, Bobbing, Sittingbourne and Kemsley along with the amenities proposed under application ref. 18/502190EIHBYB and concluded that these could be accessed by non-car modes, albeit the proposal would result in a degree of reliance on private car use. The Council's Planning Committee resolved to approve an application for the erection of 42 dwellings on land immediately south of the site under application ref. 14/506167/OUT. The officer's report advised '...whilst the site could be more ideally located in terms of integration with existing settlements, I consider it to be a reasonably sustainable location for residential development.' This application was withdrawn prior to the completion of a legal agreement.

7.26. In terms of the SHLAA (detailed above) which identified the site as unsuitable for residential development on the basis that it is not sustainably located, it should be noted that it omits the pedestrian/cycle connection to Kemsley via Bramblefield Lane, and accordingly misrepresents the sustainability of the site's location.

7.27. Having re-considered this proposal in light of other decisions and officer recommendations within the vicinity of the site, it is considered that there are grounds to re-assess the locational sustainability of the site relative to the previous decision of the Council. It is considered that, whilst the distances to amenities and services and the opportunities for sustainable transport choices are less than ideal, the site does not occupy an isolated location. Therefore, whilst it remains the case that the proposal does not accord with the Council's Settlement Strategy and, as such, the proposal is contrary to Local Plan Policies ST 1, ST3 and CP 2, the harm arising in terms of locations sustainability is considered to be limited.

#### 5 Year Housing Land Supply

7.28. As noted above, the proposal conflicts with the settlement strategy set out under Local Plan policy ST 3 and supported by policy ST 1. It would also be contrary to Policy DM 25 which restricts development in the ILCG. Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development and for decision-taking this means:

- approving development proposals that accord with the Development Plan without delay; or,
- 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.”

- 7.29. The Council cannot demonstrate a 5 year supply of housing. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the ‘Tilted Balance’ in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused.
- 7.30. The site is not allocated for residential development. It is located in the countryside and, as set out above, residential development conflicts with the Local Plan settlement strategy. Harm is identified in sustainable transport terms and harm is considered to arise from development in the ILCG, having regard to the characteristics of the site and the purposes of the ILCG. However, given the Council’s lack of a 5 YHLS, the ‘Tilted Balance’ is applied and the most important policies for determining the application are not afforded full weight. The erection of 42 dwellings including 40% affordable housing would contribute meaningfully towards addressing the borough’s lack of a 5-year housing land supply and would represent a substantial benefit. The subsequent sections of this report make an assessment of the impacts of the development and consideration of whether these would significantly and demonstrably outweigh the benefits. This is considered in the Planning Balance section of this report.

### **Loss of agricultural land**

- 7.31. Policy DM 31 of the Local Plan indicates that development on agricultural land will only be permitted where there is an overriding need that cannot be met on land within the built-up area boundaries. The policy indicates that development on Best and Most Versatile (BMV) agricultural land (identified as Grades 1, 2, and 3a) will not be permitted unless three criteria have been met.
- 7.32. NPPF paragraph 175 is concerned with allocating land for development which has the least environmental or amenity value where consistent with other policies in the Framework. Footnote 58 to this paragraph advises that where significant development of agricultural land is demonstrated to be necessary, areas of poorer land should be preferred to those of a higher quality.
- 7.33. The applicant advises that the site has not been used for agricultural purposes for over 25 years. The site has been used as a contractor’s compound for significant periods of time over recent years and around two thirds of the site is covered by concrete hardstanding. The recent use of the site is anticipated to have compromised the soil structure on the site to the extent that it would no longer comprise best and most versatile land. Soil quality would normally be assessed through an Agricultural Land Classification (ALC) but this is not possible in this case due to the extensive coverage of the site with concrete and hardstanding. It is noted that Defra’s Magic Map site which details the results of ALC studies undertaken locally indicates considerable local variation in soil

quality with grades ranging from 1 to 3b. It is also noted that the application is accompanied by a Geo-Environmental Desk Study which indicates that the site may be contaminated which would further compromise agricultural use of the site.

- 7.34. In view of the above it is considered unreasonable to refuse the application on the grounds of the loss of Best and Most Versatile Agricultural Land, and this would be consistent with the approach taken under the previous application.
- 7.35. It is therefore considered that the proposal is acceptable in terms of loss of agricultural land and is in accordance with Local Plan policy DM 31 and the NPPF.

### **Size and Type of Housing**

- 7.36. Paragraph 9 of the NPPF states that sustainable development involves seeking positive improvements in the quality of the built environment, including widening the choice of high-quality homes. The NPPF recognises that in order to create sustainable, inclusive and diverse communities, a mix of housing types, which is based on demographic trends, market trends and the needs of different groups, should be provided.
- 7.37. Local Plan Policy CP 3 requires the mix of tenures and sizes of homes provided in any development to reflect local needs and the Strategic Housing Market Assessment. The supporting text to Local Plan policy CP 3 identifies an aspiration to deliver good quality family housing in this part of the borough. In 2020 the Council carried out a Housing Market Assessment (HMA) based upon a standard method for calculating the objectively assessed need.
- 7.38. The application seeks outline planning permission with all matters reserved except access. The Design and Access Statement provides an indicative mix of housing; however, the applicant has agreed that the proposed layout of the development will be revised to demonstrate an improved standard of design at reserved matters stage. Accordingly, the proposed mix of housing may be subject to change. The application indicates that the development will deliver 25 market units and 17 affordable units. The indicative Masterplan demonstrates that 42 family sized dwellings could be satisfactorily accommodated on the site. It is considered that the proposed development provides adequate scope to deliver a suitable mix of market and affordable dwellings to contribute to meeting local need and the specific unit mix can be assessed at reserved matters stage.
- 7.39. Having regard to the above officers consider that there is adequate scope to secure a scheme at reserved matters stage which satisfactorily complies with Local Plan Policy CP3.

### **Affordable Housing**

- 7.40. The NPPF sets out the requirement for setting appropriate affordable housing levels for new development based on up-to-date evidence. Local Plan policy DM

8 sets out that 40% affordable housing would be required from a residential development of this site.

- 7.41. The application proposes 40% affordable housing which equates to 17 units and meets the requirement of Local Plan policy DM 8. The Council's Affordable Housing Officer welcomes the proposed affordable housing and notes that delivery of 17 family sized units (40% of the proposed housing) will address a significant need in the borough. 90% of the affordable housing should be delivered as affordable rented/social rented tenure with the remaining 10% delivered as shared ownership tenure. The affordable housing should be well integrated into the development and should not be visually distinguishable from the market housing. The unit mix for the overall scheme including the affordable housing remains to be determined and this is a matter which can be addressed at reserved matters stage.

#### Accessible and Adaptable Homes

- 7.42. In line with policies DM8 and CP3 of the Local Plan the affordable homes should be designed for use by disabled persons and made available for a variety of groups including families, vulnerable and older persons. As such, there should be a number of accessible and wheelchair adaptable homes provided. It is required that at least 10% of the social rented homes be built to Building Regulations Part M4(3) standard (wheelchair user dwelling) with the remaining affordable homes provided to Part M4(2) standard (accessible and adaptable dwellings). It is recommended that the accessible and adaptable homes are secured by planning condition (No. 35).
- 7.43. The proposals are considered consistent with policies DM8 and CP3 of the Local Plan and the NPPF and are therefore acceptable in terms of affordable housing.

#### **Landscape and Visual Considerations**

- 7.44. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*' whilst paragraph 174 criterion b) states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
- 7.45. 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. The policy further states at Part B that non-designated landscapes will be protected and enhanced, and planning permission will be granted subject to the minimisation and mitigation of adverse landscape impacts. When significant adverse impacts remain, the social and or economic benefits of the proposal need to significantly and demonstrably outweigh the harm to the landscape character and value of the area.
- 7.46. The application is accompanied by a Landscape Visual Impact Assessment (LVIA) which provides an assessment of the landscape and visual effects of the development. The application site is not within a designated landscape area and is not noted for its special quality or character. The site is currently mostly disused

and comprises areas of hardstanding and areas of rough grass and developing scrub, with security fencing to the western and southern boundaries.

- 7.47. The Landscape Assessment of Kent (2004) identifies the site within the 'Fruit Belt' character area. The condition of this character area is identified as very poor, with an 'incoherent landscape pattern which has many detracting suburban and industrial influences, and main transport corridors'. The landscape sensitivity is assessed as low, with moderate visibility. The overall recommended landscape actions are to 'create' new landscape character and features.
- 7.48. The Swale Landscape Character and Biodiversity Appraisal identifies the site within the eastern part of Character Area 24, 'Iwade Arable Farmlands'. The appraisal identifies that residential and commercial development, the A249 and overhead power lines have had a major impact upon the landscape. The character area is identified as being in a poor condition with a moderate degree of sensitivity. The landscape guidelines are to 'restore and create'.
- 7.49. The Swale Landscape Sensitivity Assessment (SLSA) was produced in 2019 to assist with the development of the new Local Plan and consider the relative sensitivity of land around the main settlements in the borough to residential and employment development. The site is identified as lying within Area IE1/SE7 which includes the land to the west of the Sittingbourne urban area/ Kemsley and south and east of Iwade. The area is identified as being of low to moderate sensitivity to residential development and is the joint lowest level of sensitivity (along with 2 areas on the Isle of Sheppey) of any areas considered within the borough. The LVIA notes that Area IE1/ SE7 is quite varied and is largely rural to the west of Sheppey Way and therefore, given the characteristics of the application site, it is reasonable to assume that it would be of a lower level of sensitivity than the average for the area as a whole.
- 7.50. The LVIA identifies that the landscape around the site has a partly developed character as opposed to a rural one and the site does not have a rural character or tranquillity, including by reason of its location adjacent to the A249. There is limited visibility of the site from the surrounding landscape as it is contained by the domed landform of the adjacent field to the north, as well as hedges and trees further to the north, the dense planting alongside the A249 to the east, the large scale industrial buildings to the south and vegetation alongside Sheppey Way to the west. The LVIA identifies that whilst the development would be visible in short distance views it would not be unsightly or intrusive in the context of the existing buildings to the south and the containment which would be provided by the landscape buffers. There would be a high degree of landscape change within the site as a result of the proposed development but given the current disused and unsightly nature of the overall impact is assessed as positive. In terms of the wider landscape, the degree of change is assessed as medium with a number of positive elements such as the removal of unsightly features and the proposed landscape buffers along with negative effects arising from additional built form. Overall, the effect on the wider landscape is assessed as marginally negative. Balancing these effects the LVIA concludes that the development would result in

a neutral effect in the first year on the landscape on and around the site and, over time, the effects would be beneficial as the proposed landscaping and planting is established. It should be noted that, due to the contained nature of the site the landscape effects would not be experienced much beyond the site boundary in any case.

- 7.51. The LVIA notes that, in terms of visual impact, as the site is generally well contained and presently disused and unsightly, the proposed development would not result in significant visual effects for the adjacent property of Pheasants Farmhouse, Public Rights of Way or local roads. Consequently, where there are low level adverse effects they would decline over time to become neutral.
- 7.52. It is noted that, in the absence of development of the site, there is the prospect for the continuation of temporary uses of the land as have occurred over recent years, over which the Council may have limited control, and which would be likely to have adverse impacts in landscape and visual terms. The proposed development of the site would provide the opportunity to secure a scheme of landscaping which represents an opportunity to improve the current appearance of the site.
- 7.53. It is considered that, overall, the proposed development would not result in significant adverse impacts in landscape and visual terms. As such, the proposed development would be in accordance with the NPPF and Local Plan policy DM24.

### **Heritage**

- 7.54. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“PLBCAA”) provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 7.55. The NPPF 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.
- 7.56. Local Plan Policy CP 8 states that development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and special identity. Policy DM32 relates to listed buildings and is clear that proposals affecting listed building must preserve the buildings setting and any features of special architectural or historic interest.
- 7.57. The previous application for residential development of the site (ref. 20/504794/OUT) was refused on grounds that it had not been demonstrated that

the proposal would not result in harm to the setting or significance of Grade II listed Pheasant Farmhouse. In response to this ground of refusal the applicant has submitted a Heritage Statement which concludes that the proposed development would result in a low level of less than substantial harm to the significance of Pheasant Farmhouse as a result of a change within the asset's setting and the resultant effect on the asset's sense of historic interest as a rural farmstead.

- 7.58. The Council's Heritage Manager has reviewed the Heritage Statement and agrees that harm would arise from the loss of the agricultural character of the setting of the farmhouse. However, there is disagreement with its conclusions that the proposed development would result in a low level of less than substantial harm and it is considered that the proposed development would give rise to a medium level of less than substantial harm. The Heritage Manager advises that the visually degraded character of the application site should not justify the proposed development. Furthermore, whilst the listed building sits behind a dense road frontage screening, its relative invisibility in its wider rural context should not justify the proposed development.
- 7.59. As noted earlier in this report it is considered unlikely that the application site would be returned to agricultural use and there is potential for it to be put to uses which would be harmful in visual terms and therefore harmful to the setting of Pheasant Farmhouse, as has occurred previously. Accordingly, the identified medium level of less than substantial should be balanced against the public benefits of the proposal in accordance with paragraph 208 of the NPPF.
- 7.60. The decision-maker needs to ensure that they give considerable importance and weight to any harm to the significance of a designated heritage asset, and ensure that the more important the asset, the more the weight that is given to the harm in the balancing exercise.
- 7.61. A public benefit can be anything that delivers economic, social or environmental objectives, which are the three overarching objectives of the planning system as set out in the NPPF. Benefits are discussed in the Planning Balance section of this report, where the heritage harm is weighed against benefits and an assessment made of whether the application complies with Local Plan policies CP8 and DM32 and the provisions of the NPPF.
- 7.62. In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

### **Archaeology**

- 7.63. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.64. Policy DM34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a

preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.

- 7.65. The KCC archaeologist advises that the main archaeological potential of the site arises from its location alongside the key route through to the Sheppey crossing and the extensive prehistoric landscapes that are being discovered around Iwade, Bobbing and Kemsley on development sites in recent years. There are also mapped defences of the WW1 Chatham Land Front which cross Bramblefield Lane to the east. The KCC archaeologist advises that the potential impacts of the scheme on archaeology can be appropriately addressed through further assessment, evaluation and mitigation that can be secured through a condition on a consent for the present scheme.
- 7.66. Subject to such a condition, no objection is raised in relation to compliance with policy DM34 of the Local Plan which requires archaeological mitigation or the preservation of important archaeological features in situ.

### **Character and Appearance**

- 7.67. The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 7.68. The National Design Guide illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. The Kent Design Guide seeks to provide a starting point for good design while retaining scope for creative, individual approaches to different buildings and different areas and provides criteria necessary for assessing planning applications.
- 7.69. The layout, appearance, scale and landscaping of the development are reserved for future consideration. The Council's Design Officer reviewed the indicative Masterplan which accompanied the application and advised that there was scope to improve the pattern and layout of streets, blocks and plots, whilst the scheme would benefit from the provision of open space to the centre of the development. The arrangement of car parking was also identified as an opportunity for improvement whilst the scheme would benefit from the provision of street trees. Noting that all matters other than access are reserved the applicant submitted a Design Principles Document which is intended to inform a revised proposal at reserved matters stage. The Design Officer has confirmed that the Design Principles provide sufficient comfort that a revised scheme could be secured which represents a high standard of design. Should planning permission be granted an informative will be included on the decision notice to note the requirement for a revised proposal.
- 7.70. It is anticipated that the reserved matters of scale and appearance could indicate dwellings that are sympathetically designed to be in keeping with local typologies that would assimilate well with the existing context. Any future reserved matters application that includes scale and appearance would need to set out the extent to which the development is consistent with the National Design Guide and Kent Design Guide (condition 5).



7.71. It is considered that appropriate details can be secured at reserved matters stage in order to ensure that the siting, scale, design, appearance and detail of the scheme represents a high-quality design that is appropriate to its surroundings in accordance with Local Plan policies CP 4 and DM 14.

### **Trees**

7.72. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside. The Local Plan requirement is recognised through Policy DM29 of the Local Plan.

7.73. The application is accompanied by an Arboricultural Impact Assessment which identifies that there is one category C (low quality) tree within the application site and that this will require removal in order to facilitate the development. Some minor pruning of one group of trees outside of the site may also be required to facilitate security fencing, garage buildings or driveways; however, these works will not negatively impact the health or amenity of this tree group.

7.74. The Arboricultural Impact Assessment has been reviewed by the Council's Trees Officer who raises no objections to the proposals subject to conditions securing an Arboricultural Method Statement and details of protective fencing around areas identified for new planting in order to ensure that the soil structure is not damaged by machinery or the storage and mixing of materials.

7.75. It is anticipated that a good quality landscaping scheme including new tree planting can be secured at reserved matters stage. A landscaping condition (No. 6) is recommended which secures the proposed landscape and open space design principles.

7.76. The proposed development is considered acceptable in terms of trees and in accordance with Local Plan policy DM 29.

### **Ecology**

7.77. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

7.78. Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions for the purpose of conserving biodiversity. Furthermore, the National Planning Policy Framework states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible'. The National Planning Policy Framework states that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site

with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.'

7.79. National planning policy aims to conserve and enhance biodiversity, and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".

7.80. The application is accompanied by a Preliminary Ecological Appraisal (PEA) which identifies the presence or potential for protected and priority habitats and species within and around the application site and the potential for these features to be adversely affected without appropriate avoidance and mitigation measures. The application is also accompanied by a reptile survey. The findings of the reports are summarised as follows:

- A small population of reptiles have been recorded on site (1 x common lizard). A proposed reptile receptor site has been included within the north-east of the site and a proposed reptile translocation through habitat manipulation.
- An on-site ephemeral waterbody was found to be dry therefore it is not considered that it is suitable for great crested newts during the breeding period.
- A rabbit warren has been identified in the Site and the brash piles are suitable for resting and hibernating hedgehog. Precautionary methods for the clearance of the earth mound and brash piles have been recommended.
- With regard to breeding birds, it is recommended that clearance of the brash piles and vegetation is undertaken outside the core bird breeding season.
- Biodiversity enhancements are recommended which include generous native and nectar rich planting, installation of bird boxes, retention and creation of bird habitat and enhancements for hedgehogs.

7.81. The KCC Ecologist has reviewed the PEA and reptile survey and raises no objections to the proposals subject to conditions to secure a biodiversity method statement, biodiversity enhancements and a lighting design which follows best practice in relation to bats (Nos.16-18). The ecological mitigation strategy should include 13 x 13 cm holes cut into the base of fences to ensure connectivity is retained for hedgehogs. An informative is also recommended to address potential impacts upon breeding birds.

### **Biodiversity**

7.82. The application was submitted before Biodiversity Net Gain became a mandatory requirement. The KCC Ecology Officer notes that the proposals identify the potential to create new habitats around the site boundaries which could significantly improve the biodiversity value of the application site from its current predominantly low value arable use. It is advised that details of how the proposed development will compensate for the loss of important habitats such as

hedgerows and deliver the required biodiversity net gain should be sought. A condition securing a Biodiversity Enhancement Plan is recommended.

7.83. Accordingly, it is considered that the proposal accords with Local Plan Policy DM 28 which requires that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

### **Habitat Regulations**

7.84. The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale SPA, and Wetland of International Importance under the Ramsar Convention (Ramsar Site) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

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

7.86. The Habitat Regulation was changed in 2019 to reflect the fact that the U.K. has left the EU. However, the obligations of a competent authority in the 2017 Regulations for the protection of sites or species did not change.

7.87. As a Competent Authority, the Borough has a statutory duty to:

- Help protect, conserve and restore the designated features of the site to meet their conservation objectives;
- Prevent the deterioration of the site's habitats from human activity or natural changes, including habitats that support designated species;
- Prevent significant disturbance of the site's designated species from human activity or natural changes.

7.88. The duty applies when taking a decision (including a planning decision) that might affect the integrity of a protected site.

7.89. The Habitat Regulations state that a competent authority, before deciding to give any consent for a project must make an appropriate assessment (also known as a Habitat Regulation Assessment (HRA)) of the implications of the project in view of the conservation objectives for protected sites, if:

- The proposal is likely to have a significant effect on a protected site (either alone or in combination with other plans or projects), and
- Is not directly connected with or necessary to the management of that site.

7.90. The Council may agree to the application only after having ascertained that it will not adversely affect the integrity of the protected sites.

- 7.91. A shadow Habitat Regulations Assessment (HRA) accompanied the previous application on the site (ref. 20/504794/OUT) and the KCC Ecologist has advised that the conclusions of the document are still valid. The HRA took disturbance/recreational pressure and water quality through to the Appropriate Assessment (AA) stage. This assessment mirrors the legal process that the Council must follow under Regulation 63 of the Habitats Regulations in completing an HRA. The assessment submitted with application ref. 20/504794/OUT follows the relevant case law associated with the Habitats Regulation. In order to mitigate impacts upon protected sites the applicant has agreed to contributions towards the Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS) (£328.27 per dwelling). Furthermore, the proposals incorporate measures to address contaminated land and groundwater risks in order to mitigate any adverse effect on the water environment.
- 7.92. A review of the HRA and Appropriate Assessment (AA) was undertaken, and officers are satisfied with the conclusion that the proposal would not result in an adverse impact on the designated sites if the proposed mitigation measures were implemented. This view was also agreed by the KCC Ecological Service whilst Natural England raise no objections subject to securing measures to mitigate recreational impacts on the designated sites. The HRA and AA and their conclusion (i.e., that there would be no harm to the integrity of protected sites) has been adopted by the Council as the competent authority.
- 7.93. In conclusion, an AA has been carried out. This accords with the Habitat Regulations and subject to the proposed mitigation measures being secured and delivered, there would not be any no adverse impact on the integrity of designated sites and the proposal would accord with Policies CP7 and DM28 of the Local Plan.

### **Transport and Highways**

- 7.94. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

*“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”*

- 7.95. The NPPF also states that:

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

- 7.96. Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.

- 7.97. The access to the site will take the form of an improved priority junction with Sheppey Way. The application is accompanied by a Transport Statement (TS) which identifies that the proposed development would result in approximately 205 vehicular movements across the 12-hour weekday period (0700-1900). In view of the site's accessibility to a range of primary routes the TS concludes that these vehicle trips will readily dissipate across the wider highway network with no significant impacts on highway capacity or amenity.
- 7.98. The sustainability of the proposed development in transport terms is considered above at paras. 7.22-7.27. Having regard to the location of the site in relation to amenities and services, public transport accessibility and the availability of pedestrian and cycling infrastructure, it is considered that there will be a degree of harm in sustainable transport terms.
- 7.99. National Highways raise no objections to the proposed development subject to conditions to secure restrictions on planting or boundary features oversailing highways land, details to address surface water run-off onto the highways, and a Construction Management Plan.
- 7.100. KCC Highways raise no objections to the proposal subject to conditions to secure the following:
- A Construction Management Plan (No. 24);
  - Details of car and cycle parking in accordance with Residential Parking SPD and Local Plan requirements (Nos. 26 and 27);
  - Electric Vehicle Charging Points to all dwellings (No. 25);
  - Details of roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture (No. 28);
  - Completion of highways works between dwellings and the adopted highway prior to the occupation of the dwellings (No. 29);
  - Provision and maintenance of visibility splays (No. 30);
  - Completion of highways works relating to proposed site access prior to first occupation (No. 30).
- 7.101. It has been demonstrated that the proposal would not result in unacceptable impacts on highway safety and the road network which the NPPF states would warrant refusal of planning permission. Accordingly, the proposal is considered acceptable in highways terms and is in accordance with the NPPF and the Local Plan.

### **Car and Cycle Parking**

- 7.102. The Swale Car Parking SPD includes recommended residential car parking standards. Details of car parking to individual units will be assessed at reserved matters stage. However, the indicative Masterplan adequately demonstrates that a reserved matters scheme could be brought forward which provides car parking provision to comply with the recommended standards. Accordingly, the

proposal can comply with Local Plan Policy DM 7 requirement for compliance with the Swale Vehicle Parking SPD.

- 7.103. Cycle parking will be required to accord with policy requirements and this will be addressed at the detailed application stage. It is anticipated that cycle parking will be provided within sheds/stores to the houses. Accordingly, the proposal can comply with the requirement of Policy DM 7 to provide cycle parking facilities of an appropriate design and in a convenient, safe, secure and sheltered location.

### **Air Quality**

- 7.104. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.
- 7.105. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.
- 7.106. The Planning Practice Guidance on Air Quality states that
- “Whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation.....”.*
- 7.107. Local Plan Policy DM6 sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.
- 7.108. The application is accompanied by an Air Quality Assessment (AQA) which identifies a risk to air quality from dust during the construction phase and from vehicular emissions during the operational stage. The construction stage impacts can be mitigated through the implementation of best practice measures to minimise the impacts of dust from construction activity. The AQA proposes a series of mitigation measures in line with recommendations within the Swale Air Quality and Planning Technical Guidance (AQPT) as follows:-
- All gas-fired boilers to meet a minimum standard of <40mgNO<sub>x</sub>/kWh;
  - 1 active electric vehicle charging point per dwelling;
  - Active and passive electric vehicle charging points to unallocated and visitor car parking spaces;

- Construction stage mitigation in accordance with the Institute of Air Quality Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'.

- 7.109. The applicant has calculated a total 5 year air quality damage cost of £14,659 in line with the AQPT and this sum will be secured through the Section 106 legal agreement. The costs of on-site air quality mitigation measures will be deducted from the sum payable, with any surplus allocated to the funding of wider air quality mitigation measures. Some of the identified mitigation measures are standard requirements which would otherwise be secured in line with Local Plan policy and guidance. Accordingly, it is recommended that a revised series of mitigation measures us secured by condition (No.42).
- 7.110. The Council's Environmental Health Public Protection Officer raises no objections to the proposal in terms of air quality subject to securing a Code of Construction Practice to address dust at construction stage (condition 25).
- 7.111. Subject to the recommended conditions the development would be acceptable in terms of air quality and would accord with Local Plan Policy DM6 and the NPPF.

### Open Space

- 7.112. Local Plan Policy CP7 requires developments to promote the expansion of Swale's natural assets and green infrastructure. Policy DM17 of the Local Plan sets out that new housing development should make provision for appropriate outdoor recreation and play space proportionate to the likely number of people who will live there. Policy DM17 sets out various open space typologies and the amounts of space that would be required for residential development. The table below compares the proposal to the open space requirements.

Typology	Policy DM17 requirement (ha per 1,000 person)	Scheme requirement (ha)	Proposed (ha)	Difference (ha)
Parks and gardens	1.11	0.11	TBC	TBC
Natural and semi natural greenspace	4.36	0.44	0.28	-0.16
Formal outdoor sport	1.09	0.11	Nil	-0.11
Amenity Greenspace	0.45	0.04	TBC	TBC
Provision for children and young people	0.24	0.02	TBC	TBC
Formal Play facilities			on site	
Allotments	0.2	0.02	Nil	-0.02

<b>Total</b>		<b>0.74</b>		
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- 7.113. The scheme is in outline form with all matters reserved except means of access. In terms of open space provision, the application is accompanied by a parameter plan which identifies a residential area and open space. The identified area of open space is approx. 0.28ha and will primarily comprise accessible landscape buffer and public open space along the western and northern boundaries of the site. This open space can be considered to fall under the natural and semi-natural green space typology and there will remain an approx. 0.16ha shortfall of this typology. The remaining shortfalls are not known at this stage as layout and landscaping are reserved matters and it is anticipated that the design of the development will be revised at reserved matters stage.
- 7.114. It is anticipated that further open space will be provided within the identified residential development area and the Design Principles document identifies that a local area play will be incorporated on-site. The scheme would give rise to a requirement for a financial contribution towards off site play/fitness provision of £512.80 per dwelling in line with the Council's Open Spaces and Play Area Strategy. However, the Council's Open Space Officer has confirmed that this requirement would be waived subject to satisfactory on-site play provision. A play area would form part of a reserved matters submission and therefore the applicant has agreed that the Section 106 legal agreement will secure the financial contribution; however, the obligation will fall away if a suitably located play area of adequate size and standard is provided on-site.
- 7.115. The Design Principles document also indicates the proposed development will incorporate a central open space for play, recreation and amenity. It is anticipated that this provision will go some way to addressing the parks and gardens and amenity greenspace requirements of the development.
- 7.116. There will be a shortfall in formal outdoor sport. In line with the Council's Open Spaces and Play Area Strategy a financial contribution of £681.81 per dwelling will be payable towards off-site formal sports provision in the Sittingbourne area. In view of this contribution the shortfall in formal sports provision is considered acceptable.
- 7.117. There will be a shortfall in provision of allotments. In view of the location of the site there are no existing allotments within a reasonable distance of the site. Given the relatively modest (0.02ha) shortfall and the absence of local provision the shortfall can be accepted in this case.
- 7.118. It is noted that the Masterplan layout indicates family housing which benefit from private gardens which will provide some outdoor amenity space for future residents of the development. It is also noted that the scheme approved under application 18/502190/EIHYB includes substantial open space incorporating several typologies which will be readily accessible to residents of the proposed development via Bramblefield Lane.



7.119. Taking account of the on-site proposals and the future proximity of existing public open space and subject to a planning obligation to fund capacity enhancements sufficient to cater for the uplift in residents that would be living on the site, the proposal is acceptable in terms of open space and is therefore in accordance with Policy DM 17 of the Local Plan.

### Community Infrastructure

7.120. The National Planning Policy Framework attaches importance to ensuring that a sufficient choice of school places are available to meet the needs of existing and new communities. This is reflected in Policies CP5 and CP6 of the Local Plan, which set out that provision shall be made to accommodate local community services, social care and health facilities within new developments.

7.121. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is:

- Necessary
- Related to the development
- Reasonably related in scale and kind

7.122. The following planning obligations would be necessary to mitigate the impact of the development and make it acceptable in planning terms. The obligations have been identified and assessed by Officers to comply with the Regulations (as amended).

Requirement	Value	Towards
<b>Ecology</b>		
SAMMS payment	£328.27 per dwelling	North Kent Strategic Access Management and Monitoring Strategy.
<b>Education</b>		
Primary Education Contribution	£297,410.40 (£7,081.20 per applicable house)	The construction of a new primary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or new primary school in Sittingbourne.
Secondary Education Contribution	£234,661.98 (£5,587.19 per applicable house)	Towards a new secondary school in Northwest Sittingbourne (Local Plan Policy MU1) and/or a new secondary school in Sittingbourne non-selective and Sittingbourne & Sheppey selective planning group areas.
Special Educational Needs and	£559.83 per applicable house	Special Education Needs (SEND) contribution to be applied towards additional places in Swale district.

Disabilities (SEND) Contribution		
Community Learning and Skills	£1,436.82 (£34.21 per dwelling)	Community Learning Project details contribution to be applied towards/ or additional equipment and resources for adult education centres serving the development, including outreach provision.
<b>Community</b>		
Integrated Children's Services	£3,110.10 (£74.05 per dwelling)	Financial contribution towards additional equipment and resources for the Integrated Children's Services in Sittingbourne including outreach provision.
Library, Registrations and Archives Service	£2,630.46 (£62.63 per dwelling)	Financial contribution towards additional resources, equipment and book stock (including reconfiguration of space) at local libraries serving the development including Sittingbourne.
Adult Social Care	£7,596.96 (£180.88 per dwelling)	Financial contribution towards specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting community facilities, sensory facilities, and Changing Places within Swale.
<b>Waste</b>		
Refuse	£8,153.46 (£194.13 per dwelling)	Financial contribution towards additional capacity at Sittingbourne Household Waste Recycling Centre and Sittingbourne Waste Transfer Station.
Refuse and Recycling Bins	<u>Each house</u> 180ltr green bin for refuse £51.20 240ltr blue bin for recycling £51.20 23ltr food bin £11.90 5ltr food caddy £6	Bin provision
<b>Health care</b>		
NHS (Integrated Care Board)	£36,288.00	Financial contribution towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the

		area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.
<b>Air Quality</b>		
Air Quality Damage Cost contribution	£14,659	On-site or off-site air quality mitigation measures
<b>Formal Sports and play/fitness provision</b>		
Off-site formal sports provision	£28,636.02 (£681.81 per dwelling)	Fitness and formal sports facilities in Sittingbourne area.
On site play area or financial contribution towards off site play/fitness provision	£21,537.60 (£512.80 per dwelling) in the absence of satisfactory on-site provision	Children's play areas and outdoor fitness facilities in Sittingbourne area.
<b>Monitoring</b>		
Monitoring fee	£tbc	Contribution to cover the cost of monitoring the delivery of various planning obligations

7.123. Kent County Council in its capacity as education provider, has a duty to ensure that adequate school places are provided to accommodate current and future projections for primary school and secondary needs.

### **Flood Risk, Drainage and Surface Water**

7.124. The NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. This is reflected in policy DM 21 of the Local Plan.

7.125. The application site lies within Flood Zone 1 and therefore has a low tidal and fluvial flood risk. The application is accompanied by a Flood Risk Assessment which identifies that the site has a low overall risk of flooding from all other sources.

7.126. Most of the site is classified as having a very low risk of surface water flooding; however, a part of the site at the north-west corner is identified as having a high risk. Surface water flood risk can give rise to a requirement for a Sequential Test which is intended to direct new development to areas with the lowest risk of flooding. However, the NPPG advises that a sequential test may not be required if development can be laid out so that only elements such as public open space, biodiversity and amenity areas are in areas at risk of any source of current or future flooding. The applicant has submitted a parameter plan which excludes all development from the area at high risk of surface water flooding and identifies this area for open space. On this basis, a Sequential Test has not been required to accompany the application.

- 7.127. Lower Medway Internal Drainage Board note that the site lies within catchments which ultimately drain into the Board's district and a land drainage consent will be required. The Board raise no objections to the proposed development subject to conditions to secure details of a surface water drainage scheme and its subsequent verification and maintenance as well as details of construction stage surface water drainage.
- 7.128. KCC Flood and Water Management raise no objections to the proposed development subject to conditions securing details of surface water drainage and subsequent verification.
- 7.129. Southern Water raise no objections to the proposals in terms of surface water drainage.
- 7.130. In view of the above it is anticipated that the proposals will satisfy the requirements of Local Plan policy DM21 to include sustainable drainage systems to restrict runoff to an appropriate discharge rate, maintain or improve the quality of the receiving watercourse, enhance biodiversity and amenity and increase the potential for grey water recycling. It is therefore considered that the proposals are in accordance with Policy DM 21 of the Local Plan and the NPPF.

### **Contamination**

- 7.131. The NPPF states that local planning authorities should ensure that the site is suitable for its new use taking account of various matters, including pollution arising from previous uses.
- 7.132. The application is accompanied by a Geo-environmental Desk Study which identifies potential sources of contamination at the site arising from previous land uses at the site. The Study recommends that a Phase 2 intrusive ground investigation is undertaken to establish the extent of ground contamination on the site.
- 7.133. The Council's Public Protection Officer has reviewed the Desk Study and agrees the recommendation. A contaminated land investigation, a programme of remediation and subsequent verification should be secured by condition (Nos. 14 and 15).
- 7.134. In view of the above the proposals are considered acceptable in relation to contamination and are therefore in accordance with the Local Plan and the NPPF.

### **Living Conditions**

#### *Existing residents*

- 7.135. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.136. The nearest neighbouring residential dwellings are on the opposite side of Sheppey Way. The application seeks outline planning permission and

accordingly the masterplan layout is indicative only and subject to change at reserved matters stage. However, the indicative masterplan layout indicates that the proposed quantum of development could be accommodated within the site without any undue harm to the residential amenities of the occupants of nearby dwellings by reason of overlooking, loss of daylight and/or sunlight, visual impact and noise and disturbance.

7.137. *Future residents*

7.138. New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government's minimum internal space standards for new dwellings.

7.139. As noted above, the masterplan layout is indicative only and subject to revision. However, the layout demonstrates that 42 residential dwellings could be satisfactorily accommodated on the site whilst providing adequate separation between dwellings to ensure sufficient outlook and privacy for occupants of the dwellings.

7.140. Approval of the detailed internal layouts of the proposed accommodation is not sought at this stage. However, the indicative masterplan is considered to demonstrate adequate space to accommodate dwellings which would provide an appropriate standard of internal accommodation subject to details to be submitted at reserved matters stage.

7.141. The indicative masterplan layout demonstrates scope to provide adequate private amenity space in the form of rear gardens for the proposed houses.

7.142. The indicative masterplan indicates that the site could accommodate a development which is acceptable in terms of the living conditions of both future occupiers and the occupiers of existing nearby residential properties. The proposal is therefore considered to be in accordance with the Local Plan and the NPPF.

### **Sustainability / Energy**

7.143. Policy DM 19 of the Local Plan requires development proposals to include measures to address climate change. Details of sustainable design and construction measures to minimise environmental impacts can be secured at detailed stage and may include measures such as electric vehicle charging points (provision of one per dwelling); solar panels; passive energy measures; and/or low NOx boilers as examples.

7.144. The application is accompanied by an Outline Energy Strategy which identifies air source heat pumps and photovoltaic panels as means of reducing the carbon emissions from the development in line with policy DM19.

7.145. The Council's Climate Change Officer has reviewed the Outline Energy Strategy and welcomes the proposed carbon reduction measures which can be secured by condition (No. 34). It is noted that there is no reference to

electric vehicle charging provision or measures to reduce domestic water consumption; however, these can be secured by condition (No. 35).

- 7.146. In view of the above it is considered that the proposals are acceptable in terms of sustainability and energy and will comply with Local Plan policy DM19.

### **Noise**

- 7.147. The NPPF states that planning decisions should ensure that noise from new development is mitigated and potential adverse impacts are reduced to a minimum.
- 7.148. The application is accompanied by a Noise Impact Assessment which establishes that an acceptable level of internal amenity can be achieved, provided the recommendations for glazing and ventilation are followed. The Council's Public Protection Officer advises that, as the details for the glazing and ventilation to be used are yet to be specified, these details are secured by condition (No. 36).
- 7.149. The Noise Impact Assessment identifies that the external noise will be around 10dB above the higher BS 8233 guideline for external amenity. The Assessment does not make any recommendations in terms of mitigation measures and suggests that these should be considered at the detailed design stage; however, the Planning Statement proposes the use of 1.8m acoustic fencing. The Council's Public Protection Officer recommends that details of acoustic fencing be secured by condition (No. 37).
- 7.150. In view of the above the proposed development is considered acceptable in terms of noise and in accordance with the provisions of the NPPF.

### **Other matters**

- 7.151. Iwade Parish Council have raised concerns that the adjacent site to the north could be the subject of a planning application for further housing development. Any potential future planning application on the adjacent site is not a material consideration relevant to assessment of this application.

### **The Planning Balance**

- 7.152. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Under s70(2) of the Town and Country Planning Act 1990, the decision-maker needs to have regard to the provisions of the development plan and any other material considerations.
- 7.153. The previous application on the site was refused on grounds including development within the ILCG and in an unsustainable location and failure to demonstrate that the proposal would not cause harm to heritage assets. The proposal has been revised to seek to address the previous grounds of refusal and the proposal has been re-appraised having regard to the previous

decision, as set out in the Principle section of this report. The two other previous reasons for refusal are capable of being addressed and will fall away.

- 7.154. The Council presently cannot demonstrate a 5YHLS Council can demonstrate a 4.1-year supply of housing. In accordance with footnote 8 to paragraph 11 of the NPPF, the most important policies for determining this application cannot be considered up-to-date, and the 'Tilted Balance' in favour of sustainable development should apply to decision making. Only if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, should planning permission be refused. It is therefore necessary to consider the benefits and disbenefits of the proposal in order to determine whether there are adverse impacts which would justify a refusal of planning permission.
- 7.155. It is considered that the proposal will result in disbenefits arising from conflict with Policies case Local Plan Policies ST1, ST3, ST5, CP2 and DM25. As noted above, **moderate weight** is afforded to harm arising from development in the ILCG and **limited weight** is afforded to the harm arising from the locational sustainability of the site. Noting the 5YHLS and the appeal decisions detailed at paras. 2.16-2.17, **moderate weight** is afforded to the conflict with the Swale Settlement Strategy.
- 7.156. Officers consider that the proposed development would deliver the following benefits:
- Housing and affordable housing
  - Employment and economic activity
  - Ecology and biodiversity
  - Design and appearance
  - Sustainability and carbon reduction
  - Local finance considerations.

#### Housing and affordable housing

- 7.157. The erection of 42 dwellings, including 40% affordable housing to address a pressing need, would contribute towards addressing the lack of 5 YHLS within the borough Given the Framework's general imperative to boost the supply of housing, this is an important factor weighing in favour of the application. Overall, it is considered that the delivery of housing and affordable housing is a benefit which should be afforded **substantial weight**.

#### Employment and economic activity

- 7.158. New residents who will use local services and facilities and facilitate potential future growth opportunities which meet the economic and social objectives of sustainable development at paragraph 8 of the NPPF.
- 7.159. The development would bring forward jobs and spending during the construction phase. Paragraph 81 of the NPPF advises that significant weight should be placed on the benefit a scheme offers in supporting economic growth and productivity; however, this weight is moderated on the basis that these benefits will be limited to the construction phase. Overall, **moderate**

**weight** is afforded to the employment and economic activity benefits of the development.

#### Ecology and Biodiversity

7.160. Whilst landscaping is a reserved matter, the indicative plans and documents show that the emerging proposals would provide suitable landscaping and planting in and around the site (subject to details being secured at the reserved matters stage) which would provide ecological and biodiversity enhancements. This is a normal planning requirement and is therefore attributed **limited weight** in the planning balance.

#### Design and appearance

7.161. As an Outline application, matters of layout, scale, appearance and landscaping are not for determination. However, the application includes an indicative Masterplan layout and a Design and Access Statement which demonstrate how the site could be developed to deliver a high quality and distinctive development and **limited weight** is afforded to this benefit.

#### Sustainability and carbon reduction

7.162. The proposed development would comply with Local Plan policy and Building Regulations requirements in respect of sustainability and energy consumption which would be a normal planning and Building Regulation requirement. Accordingly, **limited weight** can be afforded to this benefit.

#### Local finance considerations

7.163. The Town and Country Planning Act 1990 sets out general considerations in the determination of applications states the following:

*“In dealing with an application the authority shall have regard to  
(a) the provisions of the development plan, as far as material to the application,  
(b) any local finance considerations, as far as material to the application, and  
(c) any other material considerations.”*

7.164. The application proposes 42 new dwellings with associated Council tax being received from occupiers and able to be used by the Borough to carry out its statutory functions. The funding is needed to mitigate the impacts of the development and **limited weight** is afforded to this benefit in the planning balance.

#### Heritage impacts

7.165. As is set out in Section 7.9 of this report, the development would result in harm to the setting of the Grade II listed Pheasant Farmhouse. The level of harm is considered to amount to a medium level of ‘less than substantial’ harm. Even in cases where the heritage harm falls in the ‘less than substantial’ category, as is the case here, this still requires being given great weight and importance in the planning balance.



- 7.166. Officers have been mindful of the statutory duty and have placed great weight and importance on the fact that less than substantial harm would be caused to the designated heritage asset.
- 7.167. The proposal would bring forward public benefits identified in this section including the delivery of housing which is afforded substantial weight. The proposal would bring forward employment and economic benefits which are public benefits afforded moderate weight. The further benefits identified above are also considered to represent public benefits which would be afforded limited weight.
- 7.168. In light of the benefits identified, in particular the substantial benefit arising from the delivery of housing and given the medium degree of less than substantial harm to the Grade II listed Pheasant Farmhouse it is considered that the public benefits are sufficient to outweigh the heritage harm. Officers are therefore of the view that the proposals are in accordance with Local Plan policies CP8 and DM32 and the provisions of the NPPF.
- 7.169. In considering the impact of this proposal on designated heritage assets, officers have had regard to the Council's obligations pursuant to s16, s66 and s72 of the Planning (Listed Building and Conservation Areas Act) 1990.

#### Planning Balance – Conclusion

- 7.170. The above assessment identifies a series of benefits which weigh in favour of the proposal. In particular, the delivery of 42 units of housing including 40% affordable housing is considered to be a benefit which can be afforded substantial weight. The benefits identified above are considered to substantially outweigh the identified disbenefits arising from conflict with Local Plan policy. Accordingly, the proposal is considered acceptable, and it is recommended that planning permission be granted subject to conditions and the prior completion of a Section 106 agreement.

RECOMMENDATION – GRANT PLANNING PERMISSION subject to conditions and the prior completion of a Section 106 agreement

#### CONDITIONS

##### **1. Reserved Matters**

Details relating to the appearance, landscaping, layout, and scale of the proposed dwelling(s) (hereinafter called the 'reserved matters') shall be submitted to and approved by the Local Planning Authority before any development is commenced and the development shall be carried out as approved.

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

**2. Time Limit – Reserved Matters**

Application for approval of reserved matters referred to in Condition (1) must be made to the local planning authority no later than the expiration of three years beginning with the date of the grant of outline planning permission.

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

**3. Reserved Matters**

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

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

**4. Approved Plans**

The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:

60624620-04001 Rev. C Parameter Plan Land Use  
Design Principles 17161-DP01

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with this application.

**5. Reserved Matters**

The application(s) for Reserved Matters of the development hereby permitted shall incorporate the measures set out in the Design Principles approved under this application and shall demonstrate the extent to which the proposals are consistent with the National Design Guide and Kent Design Guide..

Reason: In order to ensure the development delivers a high-quality design and place making.

**6. Landscaping**

Any reserved matters application(s) which covers the matter of 'Landscaping' shall include:

- Plans, drawings, sections, and specifications to explain full details of the hard and soft landscaping treatment and works including: planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes, numbers and densities where appropriate, materials (size, type and colour), proposed drainage arrangements, children's play equipment, street furniture, lighting columns, private and communal areas, opens spaces, edges, boundary treatments, public rights of way and roads;

- Tree planting details (including street trees and hedge rows) and specification of all planting in hard and soft landscaped areas.
- An accessible landscape buffer and public open space along the western, northern and northeast boundaries.
- Landscaping which seeks to enhance the existing features and complement these with new planting by working with the existing landscape structure and retaining existing planting.
- A Local Area Play
- Planting across the developable residential area integrating trees and soft landscaping into streets.
- A central open space for play, recreation and amenity within the developable residential area.
- Roadside verges landscaped with amenity grass and a selection of native trees of varying scales.
- The open space details shall demonstrate that there will be no Sustainable Urban Drainage Systems located within private gardens or play areas.
- Details of the programme for implementing and completing the planting.
- A detail for any temporary construction measures, products or construction methods that are specified.
- Details of a proposed watching brief, monitoring or reporting.
- A landscaping management and maintenance plan.

Reason: In order that the Reserved Matters Applications can be properly considered and assessed, in the interests of proper planning.

## **7. Landscaping**

All new planting, seeding or turfing comprised in the landscaping reserved matters shall be carried out in the first planting and seeding seasons following the completion of any particular phase. Any trees or plants, including retained trees and shrubs identified in the landscaping reserved matters, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

## **8. Arboricultural Method Statement**

No development including site clearance and demolition shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots and, for example, take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme and include a tree protection plan.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

**9. Protection of New Areas of Structural Planting**

No development shall commence until details of protection for ground designated for new structural planting in accordance with the current edition of BS 5837, have been submitted to and approved in writing by the local planning authority. All planting to be retained must be protected by barriers and/or ground protection.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

**10. Secure by Design**

The details submitted pursuant to condition (1) (the reserved matters) shall include details demonstrating how the development meets the principles of 'secure by design'.

Reason: In the interests of crime prevention and safety

**11. Limits**

The quantum of residential units to be constructed for the development hereby approved shall be limited to a maximum of 42 units.

Reason: To ensure that the development is carried out in accordance with the submitted with the application.

**12. Archaeological Works**

To assess and mitigate the impacts of development on significant archaeological remains:

- A. Prior to any development works the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable which has been submitted to and approved by the local planning authority.
- B. Following completion of archaeological evaluation works, no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.
- C. The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the agreed specification and timetable.
- D. Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in

writing by the local planning authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:

- a. a description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
  - b. an Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;
  - c. a scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.
- E. The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with Local Plan policies and the National Planning Policy Framework.

### **13. Contaminated Land**

The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

1. A site investigation, based upon the Aecom Geo-environmental Desk Study Report (April 2015) and Addendum (26 March 2020), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
2. A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure that any ground contamination on the site is identified and remediated and in the interests of the wellbeing of future occupants.

### **14. Contaminated Land Verification Report**

Prior to the first occupation of the development a closure report shall be submitted for approval to the local planning authority. The closure report shall include full verification details as set out in the approved remediation strategy. This should include details of any post remediation sampling and analysis,

together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

Reason: To ensure that any ground contamination on the site is identified and remediated and in the interests of the wellbeing of future occupants.

**15. Biodiversity Method Statement**

No development shall commence (including site clearance) until a Biodiversity Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall be based on the recommendations of an updated site visit, the Preliminary Ecological Appraisal and Reptile Survey Report by Corylus Ecology and shall provide detailed mitigation measures to be carried on site, together with a timetable for implementation. The development shall be carried out in accordance with the approved details.

Reason: Reason: In the interests of protecting any reptiles and other protected species present on the site.

**16. Biodiversity Enhancement**

With the submission of the reserved matters application details of how the development will enhance biodiversity will be submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with provision of native species planting. The approved details will be implemented and thereafter retained.

Reason: To ensure that the losses of biodiversity can be compensated for and a net gain in biodiversity delivered in accordance with the requirements of the NPPF (September 2023), and that the proposed design, specification and planting can demonstrate this. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

**17. Lighting Scheme**

Prior to the installation of any external lighting, a lighting design strategy shall be submitted to and approved in writing by the Local Planning Authority. The lighting design shall follow the recommendations within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals. All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.

Reason: In the interests of protecting bats foraging and commuting adjacent to the site.

**18. Surface Water Drainage Scheme**

Prior to the commencement of development a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Surface and Foul Water Drainage Strategies report prepared by AECOM (25 July 2023) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall address the viability of infiltration SUDS, clarify the outfall arrangements, confirm no land raising and no loss of storage, and address the requirements for any easement for the surface water drain run/open ditch outside the red line boundary. The drainage scheme shall also demonstrate (with reference to published guidance):

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

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

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

**19. Surface Water Drainage Scheme Verification Report**

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

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 169 of the National Planning Policy Framework.

**20. SUDS Maintenance**

Prior to the commencement of development a maintenance schedule shall be submitted to and approved by the Local Planning Authority. The schedule shall specify ownership and any proposed arrangements for future adoption by a public body or statutory undertaker. The schedule shall specify a timetable for implementation, and it shall provide a management and maintenance plan for the lifetime of the development. All SuDS should be located in accessible areas, and the plan should include addressing the frequency of maintenance for each SuDS feature based on guidance in the CIRIA SuDS Manual 2015 as well as details of who will carry out the maintenance. Any land drainage consent issued by the Lower Medway Internal Drainage Board will be suitably conditioned to include the proposed maintenance schedule.

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

**21. Construction Surface Water Management Plan**

Prior to the commencement of development, a Construction Surface Water Management Plan (CSWMP) shall be submitted to and approved by the Local Planning Authority. The CSWMP shall detail how surface water and storm water will be managed on the site during construction is submitted to and agreed by the local planning authority. The plan should outline the phases of construction showing where and when drainage features will be installed and how runoff will be managed, to minimise flood risk and water quality impacts on site and to the surrounding areas.

Reason: In the interest of managing flood risk during the construction stage. The objectives and purposes of this condition are such that it is required to be complied with before commencement. As such, those objectives and purposes would not be met if expressed other than as a pre-commencement condition.

**22. Code of Construction Practice**

Prior to the commencement of the development a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in



accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site
- Design and provision of site hoardings
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The arrangements for public consultation and liaison during the construction works

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

### **23. Construction Management Plan**

Development shall not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with KCC Highways and National Highways. The approved plan shall be strictly adhered to throughout the construction period. The plan shall include as a minimum:

- Site hours of operation; numbers, frequency, routing and type of vehicles visiting the site (including measures to limit delivery journeys on the SRN during highway peak hours such as the use vehicle booking systems etc);
- Measures to ensure that HGV loads are adequately secured;
- Travel Plan and guided access/egress and parking arrangements for site workers, visitors and deliveries;
- Sheeting of loose loads and wheel washing and other facilities to prevent dust, dirt, detritus etc from entering the public highway and details of contingency working protocol for action taken should the wheel washing be ineffective, and spoil is dragged onto the highway
- Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.

Reason: In the interests of the amenities of the area and highway safety and convenience and to mitigate any adverse impact from the development on the surrounding highways network in accordance with DfT Circular 01/2022 and section 10 of the Highways Act 1980. These details are required prior to commencement in order to ensure that satisfactory measures are in place prior to any construction activity.

**24. Electrical vehicle charging**

No dwelling shall be occupied until full details of the electric vehicle charging have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall then be implemented for each house before the dwelling in question is first occupied. All Electric Vehicle chargers must be provided to Mode 3 standard (providing up to 7kw). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:

[schemeapproved-chargepoint-model-list](#)

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

**25. Cycle storage**

No dwelling shall be occupied or the approved use commenced until space has been laid out for cycles to be securely sheltered and stored for that dwelling within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

**26. Car Parking**

No dwelling shall be occupied until vehicle parking spaces has been provided, surfaced and drained to the satisfaction of the Local Planning Authority in accordance with the adopted parking standards, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

**27. Highways Works**

Prior to the commencement of relevant works details of the proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture shall be submitted to and approved in writing by the Local Planning Authority and the development shall be laid out and constructed in accordance with the approved details.

Reason: In the interests of highway and pedestrian safety, adequate drainage and convenience.

**28. Highways Works**

The following works between a dwelling and the adopted highway shall be completed prior to first occupation of the dwelling:

- a) Footways and/or footpaths, with the exception of the wearing course;
- b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interests of highway and pedestrian safety, adequate drainage and convenience.

**29. Highways Improvements and Visibility Splays**

Prior to first use of the development hereby permitted the highways improvements and visibility splays indicated on plan references 14354-H-01 Rev. P3 and 14354-H-02 Rev. P4 shall be provided. The visibility splays shall thereafter be maintained with no obstructions over 1.05 metres above carriageway level within the splays.

Reasons: In the interests of highway and pedestrian safety and to ensure that the A249 Trunk Road continue to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980, to satisfy the reasonable requirements of road safety.

**30. Travel Plan**

The development hereby permitted shall not be occupied unless and until a comprehensive Full Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Full Travel Plan shall be prepared in line with prevailing policy and best practice and shall include as a minimum:

- the identification of targets for trip reduction and modal shift;
- the measures to be implemented to meet these targets including an accessibility strategy to specifically address the needs of residents with limited mobility requirements;
- the mechanisms for monitoring and review;
- the mechanisms for reporting;
- the remedial measures to be applied in the event that targets are not met;

- the mechanisms to secure variations to the Travel Plan following monitoring and reviews.

The development shall only be occupied in accordance with the approved Travel Plan which shall remain in perpetuity unless otherwise amended in accordance with a review to be agreed in writing by the Local Planning Authority.

Reason: In order to minimise the use of the private car and promote the use of sustainable modes of transport.

### **31. Planting and Boundary Features**

Any planting or boundary features must be located such that they do not require any trespass or oversailing of National Highways land or assets as part of their construction/planting, maintenance or replacement.

Reason: To ensure that the A249 Trunk Road continue to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980, to satisfy the reasonable requirements of road safety.

### **32. Surface Water Run-Off**

No surface water shall be permitted to run off from the development hereby permitted on to the highway or into any drainage system connected to the highway. No works shall commence on the site until details of works providing the connection from the site to downstream riparian system have been submitted to and approved in writing by the local planning authority (who shall consult National Highways). The drainage details shall comply with DfT Circular 01/22 Paragraph 59. Thereafter the works shall be carried out in accordance with the approved details.

Reason: To ensure that the A249 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980, to satisfy the reasonable requirements of road safety.

### **33. Energy**

The details submitted pursuant to condition (1) (the reserved matters) shall include details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the Local Planning Authority.

The details shall demonstrate that at least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended) will be achieved.

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

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

**34. Water Consumption**

The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day.

Reason: In the interests of water conservation and sustainability.

**35. Accessible and Adaptable Dwellings**

At least 10% of the affordable units hereby permitted shall be built to M4(3) of building regulations standards and all of the remaining units will be built to M4(2) of building regulations standards unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to secure accessible and adaptable dwellings.

**36. Noise**

Prior to the commencement of development details of noise mitigation measures which shall include acoustic fencing, suitable glazing and mechanical ventilation as appropriate. Upon approval by the Local Planning Authority the noise mitigation measures shall be implemented in full prior to occupation of the premises and retained thereafter.

Reason: To protect the amenities of any future residents and to ensure acceptable external and internal noise levels are specified and achieved. These details are required prior to the commencement of development in order to ensure that the development as built will provide satisfactory living conditions for future occupants.

**37. Air Quality Assessment**

Within 3 months of commencing development a scheme for the mitigation of poor air quality arising from the development shall be submitted to and approved in writing by the Local Planning Authority. The cost of mitigation measures shall at least equate to the amount calculated in the Damage Cost Assessment.

The approved scheme of mitigation shall be implemented prior to the first occupation of the development and maintained thereafter.

Reason: To mitigate air quality impacts. These details are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

