

PLANNING COMMITTEE –**DEFERRED ITEM**

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting.

DEF 1 - REFERENCE NO 22/502086/OUT		
PROPOSAL Outline application for a residential development of up to 650 units inclusive of a new community hub, landscaping measures and green infrastructure, with all matters reserved except for access.		
SITE LOCATION Land to the east of Scocles Road, Minster on Sea, Kent		
RECOMMENDATION An appeal has been submitted against non-determination of this application and it cannot now be formally determined by the Council. However, Members need to determine whether the application would have been approved if it was still before them, or on what grounds they would have refused planning permission. This will then form the basis of the Council's case regarding the development for the purposes of the appeal.		
APPLICATION TYPE Major (Outline)		
REASON FOR REFERRAL TO COMMITTEE The resolution from the Planning Committee on 10 th October 2024 was that the application be deferred for Ward Members to meet the developers to address concerns relating to the application. The applicant has now submitted an appeal against non-determination and as such members are required to consider the decision that they would have made should the Council have been the determining authority.		
Case Officer Simon Greenwood		
WARD Sheppey Central	PARISH COUNCIL Minster-on-Sea	APPLICANT MLN (Land and Properties) Ltd AGENT Broadgrove Planning and Development
DATE REGISTERED 6 th May 2022		TARGET DATE 15 th October 2024
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - SCP/220758/D10 Rev. E Potential Traffic Improvements at A249/A500 Roundabout SCP/220758/D09 Rev. D Potential Segregated Northbound Lane at A249/A500 Roundabout SCP/220758/D08 Rev. E Potential Segregated Southbound Lane at A249/A2500 Roundabout SCP/220758/D11 Assessment of Land Ownership Impact 03/001 Proposed Access Strategy Access Road onto Scocles Road 35m ICD Roundabout 03/002 Proposed Access Strategy Main Access onto A2500 40m ICD Roundabout 03/003 Rev. B Proposed Access Strategy Potential A249/A2500 Roundabout Improvement Option		

Transport Assessment ref. MA /VL/P21-2283/03 (April 2022)
Transport Assessment Addendum ref. SCP/220758/TAA/00 (June 2023)
Transport Assessment Addendum ref. SCP/220758/TAA/01 (December 2023)
Transport Assessment Addendum ref. SCP/220758/TAA/03 (April 2024)
Habitat Suitability Assessment ref. NGR: TQ 95268 71950 (August 2022)
Landscape and Visual Impact Assessment ref. 7839LVIA (April 2022)
Landscape and Visual Impact Assessment Addendum ref. 7839LVIA (July 2022)
Design and Access Statement (April 2022)
Landscape Strategy Plan 7839/ASP3
Planning Statement (April 2022)
Tree Survey and Preliminary Arboricultural Impact Assessment ref. 1597 (21 April 2022)
Parameters Plan BG/SRM/PP/01
Phase 1 Geo-Environmental Risk Assessment ref. AG3392-22-AO18 (March 2022)
Acoustic Assessment ref. MT/VL/P21-2283 /01 (April 2022)
Historic Environment Desk Based Assessment ref. 3381/01 (March 2022)
Preliminary Ecological Appraisal ref. 1596 (20 April 2022)
Air Quality Assessment ref. NP/VL/P21-2283/02 (April 2022)
Flood Risk Assessment and Outline Drainage Strategy ref. PGC199.

All drawings submitted

All representations received

The full suite of documents submitted pursuant to the above application are available via the link below: -

<https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RAWI21TYFRC00>

1. INTRODUCTION

- 1.1. This application was initially reported to Planning Committee on 10 October 2024, with a recommendation that permission be granted. The original Committee report is attached at Appendix A.
- 1.2. The Planning Committee resolved to defer the application for Ward Members to meet the developers to address concerns relating to the application. The applicant has since registered an appeal against the Council's non-determination of the application and as such Members are required to consider the decision that they would have made should the Council have been the determining authority.
- 1.3. Since the original committee report the National Planning Policy Framework (NPPF) has been revised. However, taking into account the changes made, it would not materially alter the original recommendation.

- 1.4. Five further neighbour objections have been received since the application was considered by the Planning Committee on 10th October 2024 raising no new matters beyond those identified within the original committee report.
- 1.5. The concerns raised by Members at the 10th October Planning Committee, as detailed within the minutes of the meeting, are set out below with an officer response in italics:
- Paragraph 4.4 of the report mentioned a Multi-use Community Hub, but this was not secured in the outline application. *The previous committee report set out at paragraph 4.4 that 'The applicant advises that The Plunkett Foundation (an independent charity specialising in community projects and business planning) would prepare a detailed business plan and undertake a community/stakeholder consultation with a view to delivering the facility. It is intended that this exercise would be undertaken within timescales to secure the capital costs for the centre through a Section 106 agreement.'* Recommended condition 4 has been amended to secure details of the Community Hub facilities as part of the phasing plan for the development.
 - had no confidence that the developer would deliver on the medical hub. *The previous committee report set out at paragraph 4.5 that 'The delivery of the hub would be subject to a 3 stage Integrated Care Board approval process. In the event that approval is not secured then the land will be safeguarded for a use delivering community benefits, such as additional affordable housing.'* The hub cannot be secured at this stage with no certainty as to the outcome of the 3 stage Integrated Care Board approval process.
 - concerned with the highway works and the issues it would cause across the Isle of Sheppey. *National Highways and KCC Highways raised no objections to the proposals in terms of impacts upon the highways network. It is acknowledged that the works to increase capacity on the highways network could have some shorter term impacts but the works will then deliver capacity benefits.*
 - the footpath at Scocles Road, Minster, was not wide enough for cyclists and there were no proposals to widen it. *This is a pedestrian footway which cannot be legally used by cyclists. A cycleway is proposed along the main spine road of the development which will run approximately parallel to Scocles Road and will accommodate north/south cycle movements associated with the development.*
 - often large coaches would use the Scocles Road junction to get to schools and this made it dangerous for pedestrians to use Scocles Road. *A footway is proposed along the main spine road of the development which will run approximately parallel to Scocles Road and will accommodate north/south pedestrian movements associated with the development. The estate roads would also provide a wider and safer alternative for larger vehicles travelling north/south whereby they could divert from Scocles Road at the junction with Thistle Hill Way and join Lower Road via the proposed new roundabout at the southern end of the site.*
 - if there was further development at Scocles Road then an additional roundabout needed to be considered. *It is anticipated that traffic associated with the development will utilise the proposed estate roads which are accessed via a roundabout at the junction with Lower Road and a roundabout at the junction with Thistle Hill Way. The*

estate roads will also provide an alternative to Scocles Road for north/south movements of vehicular traffic which is not associated with the proposed development. National Highways and KCC Highways raised no objections to the proposed highways arrangements.

- *the cycle and footpaths would need to be lit so that they could be used in the evenings. The lighting to the cycle ways and footways within the site would be secured through condition 39 (external lighting strategy). Lighting to the off-site cycle way and footway through the community woodland would be on land which is not within the applicant's control and may have biodiversity implications, including potential impacts on bats, which have not been assessed. Lighting to the path through the community woodland is a matter which can be pursued through Section 106 discussions and negotiations as part of the appeal process.*
- *there was no mention of youth clubs by Kent County Council (KCC). KCC no longer seek financial contributions towards youth club provision following a review of non-statutory services. A contribution of £41,468.00 is sought towards Integrated Children's Services and this would provide monies for youth intervention and outreach in the locality.*
- *a full Travel Plan should be secured at outline stage. Recommended condition 35 secures a detailed Travel Plan to be submitted prior to occupation.*
- *development would harm the Grade II listed Scocles Court. Harm to Scocles Court is discussed in paragraph 6.59 of the committee report, with the harm required to be balanced against the public benefits of the proposals.*
- *Kent County Council (KCC) Highways Team said that they would be happy for 300 homes to be built before the Lower Road footpath works commenced but this should be lowered to 100 homes. There are no footpath works specifically required prior to the construction of 300 dwellings. Condition 26 requires the provision of a shared footway/cycleway along Lower Road prior to the occupation of any dwelling accessed from Lower Road.*
- *it was not clear when the funding would be made available for key services and amenities such as a bus service. A contribution towards the running of a bus service would be for a minimum of 4 years and further details including commencement of the service would have been agreed through Section 106 negotiations had Members resolved to grant planning permission. The timing of the KCC infrastructure contributions would also have been agreed through Section 106 negotiations having regard to the phased delivery of the scheme.*
- *the Public Rights of Way (PROW) Officer had commented that the development would have a negative effect on the landscape. The Public Rights of Way Officer advised that the impacts on landscape and visual amenity of the wider network would be satisfactorily mitigated through the £48,925.00 contribution sought (paragraph 4.20 of committee report).*
- *open spaces, green spaces, play space, sports pitches and allotments should be secured. Recommended condition 7 would secure details of landscaping at reserved*

matters stage and has been amended to refer to the delivery of the allotments. Recommended condition 11 would secure details of a landscape strategy at reserved matters stage. Recommended condition 50 secures details of sports facilities. Recommended conditions 4 has been amended to specifically refer to the delivery of the open spaces, play spaces, sports pitches and allotments as part of the phasing plan for the development.

- *the location of the care homes was too close to the community areas of the development. This is noted, and it is also clarified that the proposal includes extra care housing (Use Class C3(b)) rather than care homes falling under Use Class C2. There would be scope to secure an amended layout at reserved matters stage and/or details of a management plan by condition.*
- *the road network was not adequate to accommodate for the development on the Isle of Sheppey. National Highways and KCC Highways have considered detailed highways modelling data and raised no objections to the proposal in terms of impacts on the highways network. The NPPF states at paragraph 116 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, following mitigation, would be severe, taking into account all reasonable future scenarios.*
- *the developer should have done better with the design and communication with parish and ward councillors. As all matters are reserved except for access, the design is indicative only and there is scope to seek a development of acceptably high quality under the terms of reserved matters. It is suggested that it would be difficult to sustain an objection to an outline application where the matters of scale, layout and appearance are reserved on this ground. The request to have communicated with Councillors is noted but this does not represent planning harm that could be raised as a reason to refuse the application.*
- *it was not clear what level of funding was expected from the development as KCC had provided two different letters that conflicted each other. The letter dated 26 May 2022 stated on page 3 that the contributions sought are valid for 3 months from the date of the letter after which they may need to be recalculated due to changes in district council housing trajectories, on-going planning applications, changes in capacities and forecast rolls, projects and build costs. The contributions set out in the KCC letter dated 14 September 2023 superseded the earlier request and these figures were updated in email correspondence with the case officer. The contributions sought by KCC are detailed at paragraph 6.131 of the original committee report.*
- *all funding should be allocated to infrastructure on the Isle of Sheppey; KCC have a commissioning plan for education which identifies where school places are anticipated to be required over a 5-10 year period and which schools should be expanded and the identified schools are located on the mainland. Academy schools have to be willing to accept the funding and to expand. KCC advise that increased capacity on the mainland has the potential to increase the availability of school places on the Isle of Sheppey. KCC also advise that SEND and Waste are strategically located specialist*

services which will have to be delivered on the mainland. KCC agree that the Council can specify that the Integrated Children's Services and Adult Social Care contributions should be allocated to the Isle of Sheppey.

- *the section 106 requirement for best endeavours to provide pedestrian links was inadequate. The pedestrian links would be secured through condition 28 which requires a phasing plan and details of footway connections linking pedestrian routes within the development to Queen Anne Close and the southern boundary of Scocles Court. The Section 106 obligation would require the developer to engage with the highways authority to seek a Section 278 agreement to undertake the highways works. Best endeavours represents a higher bar than reasonable endeavours and requires a party to take all steps that a prudent, determined, and reasonable person acting in their own interest and desiring the result would take.*
- *library funding should be allocated to Minster. KCC Infrastructure have responded that allocating the monies to libraries serving the development provides flexibility to address all of the library, registration and archives services available to the new residents.*
- *not clear that EV chargers would be provided; Recommended condition 31 would have secured details of EV chargers.*
- *no solar panels were being proposed on the new homes; Recommended condition 45 would have secured details of an energy efficiency and carbon reduction measures and the measures secured could have included PV panels. The suggested condition has been amended to specifically reference renewable energy generation and is detailed at the end of this updated report.*
- *the allotments were not secured by condition so the developer may not deliver them. The committee report indicated at paragraph 6.124 that 0.36ha allotments were proposed. Recommended condition 7 would secure details of landscaping at reserved matters stage and has been amended to refer to 0.36ha of allotments. Condition 4 has been amended to secure details of the timing of the delivery of the allotments as part of a phasing plan.*
- *impact piling would increase heritage harm to Scocles Court. The Heritage Statement which accompanied the application identified that the significance of Scocles Court is largely derived from its architectural and archaeological interest, whilst SBC Heritage identified that some significance is derived from its agricultural setting. Heritage harm could therefore only conceivably occur if significant and irreparable damage or destruction of the building occurred as a result of impact piling on the development site. It is not clear from the applicant's submissions that piling is required or intended and, as such, it is not possible to conclude that the development would have an impact on heritage assets in this respect. In any case, it is possible to safeguard the heritage assets by imposing a condition to require that, if piling is proposed, details of the piling method shall be submitted to and approved in writing by the Local Planning Authority (additional recommended condition 52).*
- *condition 8 (Landscaping) should specify 10 year period for replacement of landscaping. Five years is a standard period for planning conditions requiring the*

replacement of damaged, removed, dead or diseased trees and plants. A 10 year time period could be specified but may be considered unduly onerous. Paragraph 57 of the NPPF makes clear that planning conditions should only be used where they are, inter alia, necessary and reasonable.

- *condition 24 (Highways Works) needed to be amended to read “No more than 100 dwellings...” not 300 as stated. Recommended condition 24 required that no more than 300 dwellings shall be occupied until vehicle accesses onto Scocles Road and Lower Road and a spine road connecting the two have been constructed and opened for use. KCC Highways response references detailed highways modelling data which has informed the 300 home trigger identified as appropriate for the completion of the spine road.*
- *condition 25, (Provision of footway) should not include Scocles Road. The other dwellings would have sufficient pedestrian access arrangements and, therefore, it is not considered necessary for the construction of these other dwellings to trigger the requirement to provide the specified footway. NPPF paragraph 57 requires that conditions are, inter alia, necessary, precise and reasonable. If the houses to be occupied would not require the footway on Scocles Road to facilitate pedestrian access then the proposed revised condition would not meet these tests.*
- *condition 26, (Provision of footway) should include wording to ensure it commenced from day one of the development; For similar reasons as above, it would not be necessary and reasonable to require the footway/cycleway prior to the occupation of dwellings accessed from Lower Road.*
- *the wording in condition 50 (Sports Facilities) should be “tightened-up”. Proposals for sport facilities have not yet been finalised. Paragraph 4.4 of the original committee report advised that The Plunkett Foundation (an independent charity specialising in community projects and business planning) would prepare a detailed business plan and undertake a community/stakeholder consultation with a view to delivering the multi-use community hub. It is intended that this exercise would be undertaken within timescales to secure the capital costs for the centre through a Section 106 agreement. The hub would provide outdoor sports facilities which could include a multi-use 5-a-side/sports pitch, tennis court, bowling club and allotments. It is therefore anticipated that more specific details of the sports facilities as well as the monies to deliver them would be secured through the Section 106 agreement. Condition 50 was intended to ensure that the proposed facilities accord with Sports England standards.*
- *condition 51 (Heritage Interpretation Board) should include wording that the developer would fix any harm to Scocles Court; Condition 51 is intended to secure a heritage board which would assist local residents and visitors to the area in being able to appreciate the historic function and original agricultural setting of the listed building. Any damage to Scocles Court as a result of the development would be a civil matter between the owner of Scocles Court and the developer. The proposed amendment to condition 51 would not meet the tests set out paragraph 57 of the NPPF that it conditions should be, inter alia, necessary; relevant to planning; enforceable and reasonable.*

- understood that outline applications were presented to Committee so that Members could secure the relevant details but often got lots of changes from the developers when reserved matter submissions followed. *The planning system allows for the submission of outline applications with reserved matters applications being able to be advanced in a manner that is different to what might have been shown indicatively. Outline applications such as this provide the parameters by which future reserved matters would be assessed. Conditions can be used to 'tighten up' outline consents and any assessment of the acceptability of a reserved matters submission would turn on whether the proposals are in accordance with the parameter plan approved under recommended condition 5.*
- ward members should meet with officers, KCC, developer and other relevant parties to secure improvements to the proposal. *The applicant has now appealed against the Council's non-determination of the application and it is necessary for the position of the Council to be decided upon in order to be able to respond to the appeal proceedings in a timely manner. There is no scope for any further meetings. The position of the Council should be reached on the basis of the development that has been set out within the outline application.*
- the timings of the road works and connection to the Lower Road roundabout were key and thought that further discussions were needed with KCC to identify the timing of highways works. *Recommended condition 23 secures details of off-site highways works to the A2500 Lower Road / Barton Hill Drive roundabout. Recommended condition 24 secures details of works to connect the spine road to the A2500 Lower Road. These details will be assessed in consultation with KCC Highways who will consider the implications of the timing of the works.*
- the affordable housing should be made available to Isle of Sheppey residents before it was made available to others; concerned that housing was given to people that lived out of the local area, rather than residents that needed it in the borough; *The Section 106 agreement would provide for the Council to exclusively nominate households in housing need to the affordable dwellings in accordance with the Council's Allocations Policy. Residency in the borough is a requirement to qualify for inclusion on the Council's Housing Register.*
- thought the Council should have done their own Independent Traffic assessment. *The Council instructed Advanced Transport Research to replicate the applicant's traffic surveys and instructed Stantec to review and assess the survey data. The surveys were carried out during w/c 9th December 2024. Stantec have carried out an initial review of the further traffic count evidence and provided an initial commentary advising that the traffic counts are generally lower than those provided within the applicant's Transport Assessment. The new data identified some higher queues than identified within the Transport Assessment; however, this was on a rainy day so driving behaviour dynamics need to be considered in such conditions. Furthermore, there is no evidence of a network problem of queuing and the queues were short term at junction specific points. Stantec consider that the conclusions of the Transport Assessment in terms of required mitigation would likely be unaltered in view of the further surveys. Given that the Transport Assessment including mitigation proposals*

has been identified to be sound and given that KCC Highways and National Highways raised no objections to the proposals, Stantec advise that the proposals can be considered acceptable in highways terms.

- the funding for schooling should be allocated to schools on the Isle of Sheppey rather than grammar schools in Sittingbourne. *This matter is addressed above.*
- there were too many aspects of this proposal that were not yet resolved therefore it would be hard to agree it at this stage. *As above, the application has been made in outline with all matters reserved apart from access. Further detail would come forward as part of future reserved matters applications, where details relating to scale, appearance, landscaping and layout would be subject to further scrutiny.*
- it was important for the developer to meet with Parish Councils and the Ward Members to secure improvements to the scheme. *The applicant has now appealed against the Council's non-determination of the application. The position of the Council should be reached on the basis of the development that has been set out within the outline application.*
- the Scocles Road proposals could be improved to better address impacts on the road network. *It is intended that highways movements associated with the development will be routed through the development rather than Scocles Road. KCC as highways authority did not raise objections in relation to the Scocles Road proposals.*
- the Ward Members and Parish Councils should have been able to have input into the proposals before it was deferred to the Committee. *This view is noted but should not be determinative in the Council now reaching its position in respect of the proposed development which should be based on the details that have been submitted with the outline application.*
- the Housing Association's energy targets were not often that high so it would be good to see a requirement for the new homes to be given a Band B Energy Performance Certificate (EPC) rating. *Recommended condition 45 required details at reserved matters stage of materials and measures to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste. The details are required to 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 provision of the bus services needed clarifying. *Paragraph 6.107 of the committee report noted that preferred option involving a new local bus service with a route from the development to Tesco in Sheerness with a timetable aligned with train services to and from Sheerness Railway Station. Since the previous Planning Committee meeting, no further information pertaining to the bus services is available. A mechanism to secure a suitable bus service to serve the development is referred to in paragraph 6.107 of the committee report and will be discussed as part of the Section 106 negotiations through the appeal process.*
- there was not enough infrastructure on the Isle of Sheppey, and it needed to be clear in the Local Plan on how developers could deliver infrastructure to support new

development. *The impacts of the proposals on infrastructure are discussed in the committee report. The response received from KCC Infrastructure indicated that the financial contributions requested would be sufficient to mitigate the impacts of the development.*

- the developer needed to provide further clarity with regards to the cycle pathway and youth club provisions. *These points are addressed above.*

CONCLUSION

- 1.6. Having regard to the reasons for deferral and the officer responses set out above, it is considered that the conclusions of the officer report remain valid, and it is recommended that members resolve that they would have granted planning permission subject to conditions (as amended below) and the prior completion of a Section 106 legal agreement.

Amended conditions.

4. Phasing

No development shall take place until a Phasing Plan, which shall include justification for the proposed Phases, demonstrate the timescale for the delivery of the development and include the order of the delivery of the proposed phases, has been submitted to and approved in writing by the local planning authority. The Phasing Plan shall include details of the delivery of any Community Hub facilities falling within use Classes E(d), E(e), E(f), F.1 (a) and F.2(b). The phasing plan shall also include details of the delivery of the allotments and other open space including play, parks and gardens, natural/semi-natural greenspace, outdoor sport, amenity greenspace and provision for children and young people. The phasing of the development shall not be carried out otherwise than in accordance with the approved plan.

All reserved matters submissions shall be in accordance with the Phasing Plan as approved by the Local Planning Authority, unless otherwise agreed with the Local Planning Authority. Any references to a Phase of the development within this permission shall be taken to be a reference to phases as identified within the Phasing Plan submitted under this condition.

Reason: To ensure the development proceeds in a satisfactory manner. 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.

7. 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, open 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, to include provision for advanced planting to the northern and southern boundary of the site.
- 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.
- An Arboricultural Method Statement produced in accordance with BS5837.
- A Tree Protection Plan showing trees that would be retained and the arrangement of temporary protection measures that would be installed prior to the commencement of development.
- A methodology for any special construction that is required to ensure the success of proposed tree retention.
- A detail for any temporary construction measures, products or construction methods that are specified.
- Details of a proposed watching brief, monitoring or reporting.
- Significant landscaping provided within the core of the site and internal streets and roads are tree lined.
- Details of 0.36ha of allotments.

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

45. Energy

For each relevant phase, the details submitted pursuant to condition (1) (the reserved matters) shall include details of renewable energy generation, 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.

52. Piling Method Statement

Prior to undertaking any piling works a Piling Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall consider the impact of the piling works on the Grade II listed Scocles Court. The piling works shall be undertaken strictly in accordance with the approved method statement.

Reason: In order to assess and mitigate the impact of any piling works on the Grade II listed Scocles Court.

