



Appeal Decision

Hearing Held on 20 May 2025

Site visits made on 20 & 21 May 2025

by G D Jones BSc(Hons) DipTP DMS MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2025

Appeal Ref: APP/V2255/W/24/3356342

Land to the East of Scocles Rd, Minster-on-Sea

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by MLN (Land and Properties) Ltd against Swale Borough Council.
 - The application Ref 22/502086/OUT, is dated 22 April 2022.
 - The development proposed is 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.
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Decision

1. The appeal is allowed and outline planning permission is granted 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.

Preliminary Matters

2. The proposal is for outline planning permission with access only to be determined at this stage and with appearance, landscaping, layout and scale reserved for future approval. Whilst not formally part of the scheme, I have treated the submitted details relating to these reserved matters as a guide as to how the site might be developed.
3. A legal agreement, dated 10 June 2025, made under s106 of the Town and Country Planning Act 1990 (the Legal Agreement) was completed after the hearing closed in accordance with an agreed timetable. I have had regard to it in my consideration and determination of the appeal.
4. There is a Statement of Common Ground (SoCG) made between the appellant and the Council dated 5 February 2025. Amongst other things, it indicates that, had the appeal not been made, the Council would have granted planning permission for the proposed development. Accordingly, the Council did not contest the appeal, but did assist the appeal process, including during the hearing.
5. When the appeal was made the appellant also applied for an award of costs against the Council. However, at the hearing, its representatives confirmed it has now withdrawn that application for costs in view of the Council's subsequent conduct.

Main Issues

6. The main issues are:
- The effect of the proposed development on the character and appearance of the area, including with regard to a 'Countryside Gap' between east Minster and Eastchurch;
 - Its effect on biodiversity;
 - Its effect on highway safety and congestion;
 - Whether there would be sufficient suitable infrastructure and services to support the proposed development, including medical facilities and sustainable modes of transport; and
 - Whether there are any other considerations, including housing delivery, that might outweigh any harm arising from the appeal development.

Reasons***Character and Appearance***

7. The appeal site is not subject to any landscape designations. Nonetheless, it is not without quality and character. Indeed, its character and appearance are typical of the wider pleasant open countryside that extends to the south and east of Minster-on-Sea. Whilst partially enclosed by hedgerows and trees along its boundaries, the open, rural character of the site is a significant feature of this part of the settlement's setting.
8. The illustrative details that support the appeal application indicate significant areas of planting and open space around much of its perimeters, notably to its southern and eastern boundaries. Nonetheless, a built frontage, contrasting with the existing open countryside, would be created along lengthy sections of Scocles Road and Elm Lane. More distant views, notably from the ridge that runs to the north and east, would also be available of the developed site.
9. Chiefly due to the scale of the development proposed, visual effects would be marked compared to the site's current open, rural character. In particular, the contribution the site makes to the open, rural setting of Minster-on-Sea and to the surrounding rural character would be lost. In its place, despite the proposed landscaping, the scheme would have the inherent character and appearance of the proposed development's substantial built form. The illustrative material suggests that it would remain apparent along boundaries to the site, with development likely to be evident above boundary landscaping and in filtered views and gaps, particularly via the two proposed vehicular access points from Lower Road and Scocles Road. In more distant views from the ridge, the development would also be readily apparent.
10. Consequently, the development would lead to a harmful loss of open countryside at odds with the existing character and appearance of the site and its surroundings. It would introduce substantial built form outside the defined settlement boundary. While this would also result in a reduction in the 'gap' between Minster and Eastchurch, a substantial 'gap' would be retained between the two settlements.
11. The landscape and visual effects would be mitigated to an extent by the proposed landscaping. However, the presence and effects of the development would, nonetheless, be felt, effecting the site's contribution to the wider

pattern of open countryside and the rural setting of Minster-on-Sea. Moreover, while native species could be employed within the planting scheme, extensive planting of the type indicated is not typical of the area's current, comparatively open rural character.

12. For these reasons, therefore, the appeal development would be harmful to the character and appearance of the area, contrary in these respects to Policies ST 3 (The Swale settlement strategy), ST 6 (The Isle of Sheppey area strategy), CP 4 (Requiring good design), DM 14 (General development criteria) and DM 24 (Conserving and enhancing valued landscapes) of Bearing Fruits 2031: The Swale Borough Local Plan, July 2017 (the Local Plan).

Biodiversity

13. Concerns have been raised regarding a number of potential effects of the proposed development on biodiversity, both on and in the vicinity of the site and further afield as a consequence of the additional population that would come were the scheme to proceed. Kent Wildlife Trust is amongst the parties that have raised such concerns, along with local residents and Minster on Sea Parish Council.
14. Nonetheless, the Council as local planning authority, does not consider that any effects on biodiversity would warrant withholding planning permission, notwithstanding the reasonably high degree of policy and statutory protection afforded to habitats and wildlife. Moreover, the County Council's Ecology Officer has raised no objections to the proposal subject to mitigation being secured.
15. A Preliminary Ecological Appraisal (PEA) has been prepared for the proposed development. It identifies the presence of or potential for protected and priority habitats and species within and around the site and the potential for these features to be adversely affected without appropriate avoidance and mitigation measures. Such measures are all matters that could be secured and controlled were planning permission to be granted. Overall, the risk of impact to protected species or habitats from the proposed development is identified in the PEA as being negligible. Notwithstanding the concerns raised by other parties, there is no substantiated evidence before me that calls into question the methodology, contents or conclusions of the PEA.
16. Indeed, there is potential to create new habitats around the site's boundaries. The proposed development, therefore, offers an opportunity to significantly improve the biodiversity value of the site from its current predominantly low value arable use and to compensate for the loss of important habitats, such as hedgerows.
17. The site is also located within 6km of The Medway Estuary and Marshes Special Protection Area and the Swale Special Protection Area (the SPAs) and Wetland of International Importance under the Ramsar Convention (the Ramsar Site). Natural England has confirmed that it is satisfied that the application site is not supporting habitat or functionally linked land to the SPAs or Ramsar Site, and subject to mitigation, it raises no objection to the appeal scheme.
18. Nonetheless, under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended), as competent authority, I am required to undertake an Appropriate Assessment of the appeal development on the basis

of its Likely Significant Effects on the SPAs and the Ramsar Site as European Sites regarding disturbance generated from recreational pressure during occupation (in-combination).

19. Due to the scale and location of the development, the Council has concluded that there is insufficient scope to provide on-site mitigation. Following liaison with Natural England, it has also concluded that off-site mitigation would be required. In such circumstances, there is an established mechanism in this area whereby a payment may be made towards the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy. Such payments, associated with different development, are used to deliver the SAMM in a coordinated manner.
20. The evidence indicates that this approach would adequately mitigate the effects of the proposal so that there would be no adverse effect upon the integrity of any European Sites. Moreover, the mitigation could be secured and managed via a combination of the planning obligations and conditions – matters I return to later in my decision.
21. For the foregoing reasons, therefore, subject to mitigation, the proposed development would have an acceptable effect on biodiversity. Consequently, in that regard, it would accord with Policies ST 6, CP 2 (Promoting sustainable transport), CP 4, CP 7 (Conserving and enhancing the natural environment - providing for green infrastructure) and DM 28 (Biodiversity and geological conservation) of the Local Plan.

Highway Safety & Congestion

22. Concerns have also been raised locally over the effects that the proposed development might have on the highway network. While a number of potential issues have been identified, including traffic accident statistics and that children would need to travel some distance from the site to access education, no substantiated evidence has been put to me to suggest that there would be any significant impacts in this regard that could not be reasonably mitigated.
23. Indeed, as with biodiversity, the Council does not consider that any effects on highway safety or congestion would justify refusing planning permission. The potential effects of the development in these respects appear to have been thoroughly assessed on behalf of the appellant, for instance via a Transport Assessment supported by a Public Transport Strategy. The development and the proposed mitigation have also been scrutinised by Kent County Council as local highway authority as well as by National Highways. Subject to mitigation, neither of these bodies have any outstanding objections to the appeal scheme.
24. Based on all that I have read, seen and heard during the appeal process, I have found no good reason to conclude that the appeal scheme would have any significant negative effects on highway safety or congestion that could not be mitigated. Indeed, it seems much more likely that it would result in benefits to the off-site highway network. Examples of this include improvements to the A2500 Lower Road / Barton Hill Drive roundabout and to the A249 Sheppey Crossing / A2500 Lower Road roundabout. There is also the opportunity to extend a planned shared footway/cycleway through the Thistle Hill Community Woodland. Accordingly, the scheme would be consistent with Policies ST 6, CP 2 and DM 6 (Managing transport demand and impact) of the

Local Plan. It also has the potential to support the objectives of the County Council's Local Transport 5 – Striking the Balance, December 2025.

Infrastructure & Services

25. Interested parties have also raised concerns over whether there would be sufficient suitable infrastructure and services to support the proposed development. This includes, amongst other things, medical facilities, sustainable modes of transport, schools, nurseries and youth facilities, as well as sewage / drainage, electricity, water, telecommunications and refuse / recycling facilities and services. While I have no doubt that the concerns are genuinely held, there is little by way of substantiated evidence to support these claims other than anecdotal comments. Examples include a poor doctor to patient ratio, children from the island being required to travel as far as Faversham to go to school and that in recent years the island was left without water for some time.
26. In contrast, the appellant has submitted a range of information and evidence that assesses the likely effects of the development along with a proposed suite of mitigation intended to deal with those effects on local infrastructure and services. In addition to the investment in the local highway network and the biodiversity mitigation referred to above, these would include open space provision and payments to improve education and health care services. Additionally, there would be improvements to bus services, public rights of way and waste services. The appeal scheme also makes provision for a new multi-use community hub, which has the potential to include a community centre, sports pitches and allotments. Moreover, land has also been set aside for a medical hub, which is subject to Integrated Care Board approval.
27. These submissions and proposals have been assessed by statutory consultees and service providers that have responsibility for planning, managing and / or providing infrastructure, services and facilities, as well as by the Council in its role as local planning authority. Having done so, subject to mitigation that could be secured via planning obligations or conditions, none of these bodies have suggested either that the proposed development would have a significant effect on existing infrastructure, services and facilities or that any effects arising from the development would not be adequately mitigated.
28. Indeed, while the proposed mitigation is primarily intended to address the needs and effects of the development, there are also likely to be some consequential benefits for the wider community. Highway benefits are, for instance, noted in the preceding subsection. New bus services, rights of way and public open space would, for example, be available to the wider community as well as to residents of the development. Moreover, new or enhanced premises for healthcare services would also be likely to be of benefit to residents of the wider area.
29. Overall, therefore, there is no soundly evidenced basis to conclude that the scheme would have a significantly detrimental effect in terms of any form of infrastructure, facilities or services. If anything, it seems more likely that it would have some positive effects in this regard. On this basis, therefore, there would be no conflict with the Local Plan, including in respect to Policies ST 6 and CP 6 (Community facilities and services to meet local needs).

Other Considerations & Planning Balance*Housing Land Supply*

30. It is common ground between the Council and the appellant that the Council cannot currently demonstrate a National Planning Policy Framework (the Framework) compliant supply of housing land. They also agree that, as a consequence, the so-called tilted balance, as set out in para 11 of the Framework, applies to the determination of the appeal. I have found no good reason to disagree with them in respect to these matters.
31. The appeal development would clearly be at odds with Swale Borough's strategy for the location of new housing and conflict in that regard with the development plan. Notably, while the site is close to the settlement boundary of Minster as a third tier settlement, it is not within that boundary such that, for the purposes of Local Plan Policy ST 3, the site is to be regarded as being *in the open countryside, outside the built-up area boundaries* where development will not normally be permitted. However, the weight carried by this conflict with the development plan is currently limited given the absence of a Framework compliant supply of housing land bearing in mind that the strategy and associated development plan policies, including Policy ST 3, act as a constraint to housing delivery.

Heritage Assets

32. Scocles Court, a listed building at grade II, is located some 40m to the west of the site on the opposite side of Scocles Road. There is modern housing development to its north, west and south, the latter of which is on-going, and there is also Scocles Road to the east. The evidence indicates that it is a former farmhouse to Scocles Farm and that associated farm buildings were laid out to the west and south, which have been demolished as part of the residential redevelopment of the land. Consequently, the agricultural function and context has been removed from Scocles Court as a former farmhouse. Its immediate setting has, therefore, changed significantly from what is likely to have been the case both originally and, more recently, prior to the nearby residential development.
33. Accordingly, the significance of Scocles Court as a heritage asset is largely derived from its architectural and archaeological interest. The agricultural fields to the east of Scocles Road, including the appeal site, do relate to its former function as a farm. Nonetheless, the development of its more immediate farmstead setting has significantly diminish any understanding of its role within the context of the farmstead and wider agricultural land and, thereby, the contribution setting makes to its significance as a listed building. Consequently, the site does not contribute to its significance as a designated heritage asset, such that the appeal development would not affect its significance in the terms of the Framework.
34. Accordingly, the appeal development would not harm Scocles Court as a grade II listed building. Notwithstanding the wider submissions from interested parties, I have also found no good reason to conclude, subject to controls that could be secured via planning condition, that it would have any negative impact on any other heritage asset.

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Other Considerations

35. In addition to the main issues and the matters outlined above, concern has also been expressed locally in respect to a number of other matters. These include: loss of farmland, agricultural capacity and employment; business, tourism and cultural development and job opportunities should be prioritised over housing; whether there is a local need and the extent of any such need for more housing; development of the site having been rejected in the past; and its effect on living conditions of neighbours during the construction stage and following completion of the development, including in respect to noise and disturbance, light, privacy, air pollution, outlook, sense of peace and security and mental / physical health including in respect to vulnerable people and people with disabilities, on residents' assistance dogs, on flood risk and on community cohesion.
36. The concerns raised also include that the applicant is not a developer such that there is uncertainty over when / whether the development would be delivered; whether the scheme would deliver too much affordable housing; whether there are insufficient employment opportunities on the island such that residents would commute to the mainland and not support the local economy; whether such development should take place on previously-developed land or on other more suitable sites, including on the mainland; over-development; the location of the proposed sports and community facilities on-site; additional planting to the Scocles Road frontage; anti-social behaviour, security, crime, safety, trespass, social support and policing; alleged conflict with the Framework, including paras 20, 105, 110, 112, 130, 174 and 185; inconsistency in planning decision-making; and the appeal scheme's cumulative effect with other development.
37. Some of these matters are assessed above. Where they are not, they are largely identified and considered within the case officer's report on the appeal development. They were also before the Council either when it prepared for and participated in the hearing, including via the SoCG, or following the hearing before my decision was made. Throughout that process the Council has not concluded that they would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence which would prompt me to disagree with the Council's conclusions in these respects subject to planning obligations and conditions.
38. Furthermore, representations were made to the effect that the rights of the occupants of a nearby dwelling under Article 8, as set out in the Human Rights Act 1998, would be violated if the appeal were allowed. I have found that residents in the vicinity of the site would not suffer unacceptable harm to their living conditions as a result of the appeal development. Nor would it conflict with the Local Plan in this regard. I am satisfied that a grant of planning permission would not unacceptably interfere with any nearby residents' right to a private and family life and home. It would, therefore, be proportionate in the circumstances to allow the appeal in terms of human rights.
39. In performing my function on behalf of a public authority I have also exercised my duties under the Public Sector Equality Duty contained in the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment, victimisation and any other prohibited conduct, and to advance equality of opportunity and foster good relations between people who share a protected

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characteristic and people who do not share it. Again, given my conclusions on the main issues and wider matters raised, the development proposed would be consistent with the aims of the PSED were it to proceed.

40. Reference has also been made to the 'Environmental Impact Assessment Regulations 2017'. Nonetheless, I have found no good reasons to conclude that the Council's assessment that an Environmental Impact Assessment is not required for the proposed development is incorrect.
41. The information before me indicates that a nearby property was not directly notified of the planning application nor of the appeal. I note the concerns that have been raised in this regard, including those regarding not having had as much time as other parties to engage with the planning process and that they did not have opportunity to be represented at the hearing. Nonetheless, those affected were given appropriate opportunity to comment in writing on the appeal scheme after the hearing closed. That process yielded three reasonably substantial sets of representations made on behalf of residents and owners of that property. Those representations have been taken into account when making my decision. Consequently, notwithstanding any shortcomings of earlier publicity/notification of the application/appeal, I am satisfied that the relevant parties have now had reasonable and appropriate opportunity to comment on the appeal proposal.
42. Comments have also been made in respect to some other matters that are not directly relevant to my decision. The planning process is concerned with land use in the public interest. Consequently, the protection of purely private interests, such as the impact of a development on the value of any neighbouring property or the loss of a view or of private rights to light, could not be material to the determination of the appeal. Similarly, while I recognise that some parties who have only recently become aware of the appeal development might otherwise have opted to relocate away from the site, this is not a matter that can alter the outcome of the appeal.

Planning Obligations

43. In the event that planning permission were to be granted and implemented the planning obligations within the Legal Agreement would secure the provision of:
 - Payments for, or towards, the delivery of:
 - The Thames, Medway & Swale Estuaries - Strategic Access Management and Monitoring Strategy;
 - Additional SEND places and/or additional SEND facilities within the Borough to serve the needs of the development;
 - Equipment and resources at adult education centres, including at Sheerness and outreach provision to increase capacity in the service;
 - Additional equipment and resources for Integrated Children's Services in Swale including outreach provision;
 - Resources, equipment and book stock, including digital infrastructure and reconfiguration of space at local libraries serving the development, including at Minster;

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- Specialist adult social care accommodation, assistive technology systems and equipment to adapt homes, adapting community facilities, and Changing Places within Swale;
 - Additional capacity at the Sheerness or Sittingbourne household waste recycling centre and Sittingbourne waste transfer station;
 - Refuse, recycling, food waste bin and kitchen caddy provision for dwellings within the development;
 - Refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development; the provision of new premises for general practice or healthcare services in the community in line with the healthcare infrastructure strategy for the area;
 - A new bus service and/or enhancements to existing services that would connect the development to the Tesco store in Sheerness, for up to 4 years;
 - A voucher for sustainable travel modes, either a bus, cycle or rail voucher for each dwelling; and
 - Mitigation of increased use of the public rights of way network and impacts on landscape and visual amenity of the wider network;
- On-site affordable housing, including extra care housing, in the form of either:
 - Option A – at a rate of 25% of dwellings delivered with recycled grant funding; or
 - Option B – at a rate of 41.5%, including with the aid of Homes England grant funding.
44. Many of these matters are referred to in the 'Biodiversity' and 'Infrastructure & Services' subsections above. Within the case officer's report on the appeal planning application the Council has undertaken a reasonably detailed assessment addressing the application of statutory requirements to the planning obligations of the Legal Agreement referencing relevant Local Plan policy compliance. Planning obligations are also touched on in the SoCG.
45. I have considered the Legal Agreement in light of Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations. Having done so, I am satisfied that the obligations therein would be required by and accord with the policies identified by the Council.
46. With regard to affordable housing, in coming to this view I have been mindful that Local Plan Policy DM 8 normally requires 0% affordable housing in this part of the Borough for this type of development. Part 6 of this Policy does, nonetheless, make provision for changed economic conditions and scheme viability such that more can be provided to help meet the Borough's needs, which the evidence indicates are significant. During the hearing, the appellant confirmed that the appeal scheme would be viable under either affordable housing Option A or B.
47. Overall, therefore, I am satisfied that all of the planning obligations of the Legal Agreement are directly related to the proposed development, fairly and

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reasonably related to it and necessary to make it acceptable in planning terms. Moreover, although there are several typographical errors in the Legal Agreement, I am also content that they would not undermine the operation of the planning obligations therein.

Conditions

48. A schedule of 44 suggested conditions agreed between the Council and appellant was submitted in accordance with a timetable established during the hearing. It supersedes the version contained within the SoCG. The revised schedule includes the standard time limit / implementation conditions. I have considered these in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly.
49. In order to ensure the development proceeds in a satisfactory manner and that facilities and infrastructure are delivered to support the residents of the scheme, a condition would be required to control the phasing of the development. To provide certainty, particularly in respect to the matters that are not reserved for future consideration, a condition requiring that the development is carried out in accordance with the approved plans would be necessary. To protect the character and appearance of the area, conditions to provide additional control over levels and landscaping as part of the reserved matters would be necessary.
50. To help ensure a safe environment for residents, a condition to secure a development that meets the principles of 'secure by design' as part of the reserved matters would be necessary. In order to provide certainty in respect to the matters that would not be reserved for future consideration and to protect the character and appearance of the area, a condition limiting the number of dwellings permitted would be necessary. Conditions to control the detailed masterplanning and design coding of the development would be necessary to protect the character and appearance of the area.
51. A condition would be necessary to ensure that features of archaeological interest are properly examined/recorded. A condition requiring adequate remediation of any contamination affecting the site would be necessary to safeguard the health and well-being of future occupiers. To protect highway safety and the living conditions of local residents, conditions would be necessary to control matters during the construction phase of the development, including hours of activity, a Construction Method Statement and Construction Traffic Management Plan.
52. Conditions to manage surface water during construction and to secure the installation and management of sustainable drainage as part of the development and foul water drainage would be necessary in the interests of flood prevention, to provide appropriate/adequate facilities and to protect the environment. Conditions to secure compliance with an Ecological Mitigation and Management Plan and a Biodiversity Enhancement Plan would be necessary in the interests of biodiversity. For that reason and to protect the character and appearance of the area, a condition would also be necessary to secure compliance with a Landscape and Ecological Management Plan.
53. To protect highway safety and manage traffic flow, conditions would be necessary to secure access, off-site highway works and the completion of certain on-site highway works to provide safe access to residents' homes.

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Conditions would also be necessary to secure pedestrian and cycle infrastructure in the interests of highway safety and to promote sustainable modes of transport. For that latter reason, a condition would also be needed to secure cycle storage as part of the development. To promote sustainable transport and in the interests of biodiversity, a condition to secure the implementation of a Travel Plan would be necessary.

54. To ensure the mitigation for the A249/A2500 Roundabout and A249 remains effective and appropriate, conditions to secure and implement Monitor and Manage Mitigation Strategies for the mitigation would be necessary. Conditions to control external lighting would be necessary in the interests of biodiversity and to protect the character and appearance of the area. In the interests of energy efficiency and sustainable development, conditions would be necessary to ensure that renewable energy generation measures and sustainable construction techniques are incorporated into the development, and to ensure that it is built to BREEAM 'Very Good' Standard or an equivalent standard.
55. A condition to limit water consumption per resident per day would be necessary in the interests of biodiversity and water conservation. Having regard to the Acoustic Assessment submitted for the proposals, a condition to make a further noise assessment and to carry out any required pursuant mitigation would be necessary in order to secure acceptable living conditions for occupants of the development. A condition to control the method of piling during construction would be necessary to ensure any such works would not have a harmful effect on Scocles Court as a designated heritage asset.
56. Given my conclusion that the development would not harm Scocles Court as a grade II listed building, a condition to install a heritage interpretation board within the site to provide information about Scocles Court, including its historic function as a farmhouse, would not be necessary. Nonetheless, such a feature would be a welcome addition to the developed site and would, no doubt, be of interest to its residents as well as to the wider community.

Planning Balance

57. The appeal development would bring a range of benefits, most notably the delivery of substantial amounts of market and affordable housing in an accessible location with reasonable access to a range of services and facilities. In the context of the area's current issues with housing delivery, the benefits together carry, at the least, considerable weight in favour of the appeal development. This would be the case overall even if a rate of only 25% affordable housing were to be delivered.
58. As set out above within my assessment of the first main issue, the development would cause harm to the character and appearance of the area and there would be associated development plan policy conflict. This carries significant weight. Nonetheless, when combined with the more limited weight carried by the other matters that weigh against the appeal development, the collective weight of the adverse impacts would not significantly and demonstrably outweigh the considerable benefits, when assessed against the policies in the Framework taken as a whole. Accordingly, it would be sustainable development in the terms of the Framework for which there is a presumption in its favour. This is a material consideration that, in the particular circumstances of the case, outweighs the conflict with the development plan as a whole.

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Conclusion

59. For all of the reasons given above, I conclude the appeal should, subject to the identified conditions, be allowed.

G D Jones

INSPECTOR

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APPEARANCES

FOR THE APPELLANTS:

Zack Simons, King's Counsel	Landmark Chambers
Richard Walters	Director, Broadgrove Planning & Development Ltd - Planning
Jim Budd	SCP – Highways
James Morton	Aspect – Landscape
George Kup	Meeting Place
Mark Murphy	MLN - Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Simon Greenwood	Principal Planning Consultant, Swale Borough Council
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FOR MINSTER ON SEA PARISH COUNCIL:

Cllr Tom Nundy	Chair of Planning Committee
Cllr Elliott Jayes	Chair of Minster on Sea Parish Council

INTERESTED PERSONS:

Cllr Mike Whiting	Borough Councillor
Cllr Angela Harrison	Borough Councillor
Gary Hodges	Local resident

DOCUMENTS SUBMITTED WHILE THE HEARING SAT

- 1 Material for the unaccompanied site visit
- 2 Kent County Council's Local Transport 5 – Striking the Balance, December 2025

DOCUMENTS SUBMITTED AFTER THE HEARING SAT

- 1 Representations on behalf of occupants of Scocles Farmhouse of 20 May and 9 & 13 June 2025
- 2 Photographs submitted by the owner of Scocles Manor (referred to herein as Scocles Court)
- 3 Revised suggested conditions
- 4 Legal Agreement made under s106 of the Town and Country Planning Act 1990, dated 10 June 2025
- 5 The suite of emails from the appellant, the Borough Council and the County Council regarding the conditions, legal agreement and post-hearing representations

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SCHEDULE OF CONDITIONS FOR APPEAL REF APP/V2255/W/24/3356342:

- 1) 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 in writing by the Local Planning Authority before any development is commenced and the development shall be carried out as approved.
- 2) The first application for approval of reserved matters referred to in Condition (1) shall be made to the Local Planning Authority no later than the expiration of 12 months beginning with the date of the grant of outline planning permission.
- 3) The first phase of development to which this permission relates shall be begun not later than the expiration of 12 months from the final approval of the relevant reserved matters.
- 4) No development shall take place until a Phasing Plan 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);
 - Allotments;
 - Open space including play, parks and gardens;
 - Natural/semi-natural greenspace;
 - Outdoor sport to meet Sport England guidance;
 - 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.
- 5) The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:
 - Assessment of Land Ownership Impact - SCP/220758/D11
 - Proposed Access Strategy Access onto Scocles Road 35m ICD Roundabout
 - Proposed Access Strategy Main Access onto A2500 40m ICD Roundabout
 - Proposed Access Strategy Potential A249/A2500 Roundabout Improvement Option
 - Parameters Plan - BG/SRM/PP/01
- 6) Any reserved matters application(s) which covers the matter of 'scale' shall include a detailed levels survey of the site and cross sections showing:
 - Existing ground levels on site (spot heights) including a datum point that is located off site. Levels shall be Above Ordnance Datum (AOD);
 - The level of the roads outside the site (AOD);
 - The proposed levels on site following completion of the development (for each existing height a proposed height should be identified);

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- The location and type of any retaining structures needed to support ground level changes;
 - Finished Floor Levels for proposed buildings; and
 - The information supplied shall clearly identify if land levels are being raised or lowered.
- 7) 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, 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 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 shall be retained and the arrangement of temporary protection measures that shall 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; and
 - Details of 0.36ha of allotments.
- 8) The details submitted pursuant to Condition (1) (the reserved matters) shall include details demonstrating how the development meets the principles of 'secure by design'.
- 9) The quantum of residential units to be constructed for the development hereby approved shall be limited to a maximum of 650 units.
- 10) The first application for Reserved Matters for the development hereby permitted shall be accompanied by a site wide detailed Masterplan with associated Design Code and a site-wide Landscape Strategy incorporating biodiversity enhancement measures and a Landscape Management Plan. The Masterplan and Design Code shall be informed by relevant National Design Guides and Codes. A Design Review Outcome Report following a design review process involving the Local Planning Authority carried out by Design South-East or another appropriate design review panel that has been

approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Masterplan, Design Code and Landscape Strategy.

- 11) Any applications for Reserved Matters shall be accompanied by a Masterplan and Design Code Compliance Statement which demonstrates how that phase of the development has been brought forward in accordance with the approved Masterplan and Design Code pursuant to Condition (10) of this permission.
- 12) To assess and mitigate the impacts of development on significant archaeological remains:
 - Prior to the commencement of development 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 in writing by the Local Planning Authority (LPA);
 - 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 in writing by the LPA;
 - The archaeological safeguarding measures, investigation and recording shall be carried out in accordance with the approved specification and timetable.
 - Within 6 months of the completion of archaeological works a Post-Excavation Assessment Report shall be submitted to and approved in writing by the LPA. The Post-Excavation Assessment Report shall include:
 - A description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
 - 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; and
 - A scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion;
 - The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the approved timings.
- 13) If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of:

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- Any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology; and
- Any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

If no contamination has been discovered during the build, then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

- 14) Prior to the commencement of the development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The document shall be produced in accordance with the Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites, the Control of Dust from Construction Sites (BRE DTi Feb 2003) and the Institute of Air Quality Management 'Guidance on the Assessment of Dust from Demolition and Construction'. The construction of the development shall then be carried out in accordance with the approved methodology.
- 15) Prior to the commencement of development, a Construction Surface Water Management Plan (CSWMP) shall be submitted to and approved in writing by the Local Planning Authority. The CSWMP shall detail how surface water and storm water shall be managed on the site during construction. It shall also outline the phases of construction showing where and when drainage features shall be installed and how runoff shall be managed, to minimise flood risk and water quality impacts on site and to the surrounding areas.
- 16) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 - 1800 hours, Saturdays 0800 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.
- 17) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0900 - 1700 hours or with the prior written approval of the Local Planning Authority.
- 18) Prior to the commencement of development (including site clearance) an Ecological Mitigation and Management Plan (EMMP) shall be submitted to and approved in writing by the Local Planning Authority. The EMMP shall be based on the recommendations in Section 5 of the Preliminary Ecological Appraisal by Adonis Ecology Ltd. Dated 20th April 2022. It shall provide detailed avoidance and mitigation measures to be carried out on site, together with a timetable for implementation. The development shall be carried out in accordance with the approved details. The EMMP shall include the following:
 - Risk assessment of potentially damaging site clearance and construction activities;

- Further surveys required to inform the measures within the EMMP;
- Extent and location of proposed mitigation measures, shown on appropriate scale maps and plans;
- Identification of 'biodiversity protection zones';
- Practical measures (both physical measures and sensitive working practises) to avoid or reduce impacts during site clearance and construction (these may be provided as a set of method statements);
- The location and timing of sensitive works to avoid harm to biodiversity features;
- The times during construction when specialist ecologists need to be present on site to oversee works;
- Responsible persons and lines of communication;
- The role and responsibilities on site of an ecological clerk of works or similarly competent person;
- Use of protective fences, exclusion barriers and warning signs.

The approved EMMP shall be adhered to and implemented throughout site clearance and the construction period in accordance with the approved details.

- 19) Prior to the commencement of development (including site clearance) a Biodiversity Enhancement Plan (BEP) addressing ecological mitigation and enhancement of the site has been submitted to and approved in writing by the Local Planning Authority. The BEP shall be based on the outline proposals in Section 5.3 of the submitted Preliminary Ecological Appraisal by Adonis Ecology Ltd dated 20 April 2022 and include the following:
- Purpose and conservation objectives for the proposed works including creating suitable habitat for reptiles, amphibians and mammals and creating new hedgerows;
 - Detailed design(s) and working method(s) to achieve stated conservation objectives;
 - Extent and location/area of proposed works on appropriate scale maps and plans;
 - Type and source of materials to be used where appropriate, e.g. native species of local provenance;
 - Timetable for implementation demonstrating that works are aligned with the proposed phasing of development; and
 - Persons responsible for implementing the works.

The BEP shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

- 20) A Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the Local Planning Authority prior to the completion of site access works of the development. The content of the LEMP shall include the following:
- Description and evaluation of features to be managed;
 - Ecological trends and constraints on site that might influence management;
 - Aims and objectives of management;

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- Appropriate management options for achieving aims and objectives;
- Prescriptions for management actions, together with a plan of management compartments;
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- Details of the body or organisation responsible for implementation of the LEMP;
- Monitoring measures to demonstrate that the aims and objectives of management are being achieved including:
 - Identification of adequate baseline conditions prior to the start of development;
 - Methods for data gathering and analysis;
 - Location of monitoring and timing and frequency of monitoring; and
 - Responsible persons and lines of communication.
- Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged; and
- Details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery.

The LEMP shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved LEMP shall be implemented in accordance with the approved details.

- 21) No dwelling hereby approved shall be occupied until the off-site highway works to the A2500 Lower Road/Barton Hill Drive roundabout as indicated on drawing number SCP/220758/D03 have been constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 22) No more than 300 dwellings hereby approved shall be occupied until a spine road connecting the improved 35m ICD 4-arm roundabout of Scocles Road/Thistle Hill Way at the development's western boundary and the new 40m ICD roundabout junction with Lower Road at the development's southern boundary, as shown on the illustrative masterplan, has been constructed and opened for use in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 23) Prior to the occupation of any dwelling accessed from Scocles Road, a footway measuring at least 2m in width shall be constructed on the eastern side of Scocles Road between Thistle Hill Way and Elm Lane in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 24) Prior to the occupation of any dwelling accessed from Lower Road, a 3m wide shared use footway/cycleway shall be constructed alongside Lower Road as shown indicatively on drawing BG/SRM/PCP/1 Revision A and extending to Scocles Road in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

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- 25) Prior to the occupation of any dwelling accessed from Lower Road, off-site works to construct a 3m wide shared use footway/cycleway between the existing provision at the junction of Lower Road and Thistle Hill Way to the junction of Lower Road and Scocles Road shall be carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 26) Prior to the submission of the first reserved matters application, details of footway connections linking pedestrian routes within the development to Queen Anne Close and the southern boundary of Scocles Court shall be submitted to and approved in writing by the Local Planning Authority, in line with the approved Phasing Plan secured in line with Condition 4 of this permission, and the footways shall thereafter be constructed in accordance with the approved specification and phasing plan.
- 27) Prior to the commencement of development (including any works of site clearance or preparation) a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall include as a minimum:
- Construction phasing;
 - The parking of vehicles of site operatives and visitors;
 - Loading and unloading of plant and materials;
 - Recording the condition of the immediate local highway prior to commencement, and measures to make good any damage attributed to construction traffic;
 - Routing and timing of construction traffic to / from site;
 - Wheel washing facilities; and
 - Temporary traffic management / signage.
- 28) 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.
- 29) Prior to the first occupation of a dwelling/premises the following works between that dwelling/premises and the adopted highway shall be completed as follows:
- Footways and/or footpaths shall be completed, with the exception of the wearing course; and
 - Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 - Highway drainage, including off-site works;
 - Junction visibility splays; and
 - Street lighting, street nameplates and highway structures if any.
- 30) The development hereby permitted shall not be occupied unless and until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The 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 timetable / phasing of the implementation of the Travel Plan measures shall be alongside occupation of the development and its operation thereafter;
- The mechanisms for monitoring and review;
- The mechanisms for reporting;
- The remedial measures to be applied in the event that targets are not met; and
- 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.

- 31) No occupation of any dwelling beyond the 250th hereby approved shall take place until full details of a 'Monitor and Manage Mitigation Strategy' has been submitted to, and approved in writing by, the Local Planning Authority. The Monitor and Manage Mitigation Strategy shall set out a methodology to determine the actual traffic impacts of the completed dwellings in terms of traffic flow changes, changes to road safety risk, and changes in traffic conditions (queue lengths and delays) on the Strategic Road Network (SRN) upon the occupation of the 250th dwelling. This information is to be set out in a report, and be used to confirm that:
- The agreed mitigation for the A249/A2500 Roundabout, as detailed to a preliminary design standard in SCP drawings refs: SCP/220758/D08 Rev G and SCP/220758/D09 Rev F, remains necessary; or
 - An alternative scheme of mitigation for the A249/A2500 Roundabout, detailed to preliminary design standard including but not limited to a Stage 1 Road Safety Audit, is necessary and appropriate to safely accommodate the traffic generation of the remainder of the development beyond the 325th dwelling; or
 - The traffic generation of more than 325 dwellings can be safely accommodated by the existing A249/A2500 Roundabout layout and if so, the number of occupations that, on the basis of the monitoring data and up-to-date transport evidence, renders the approved mitigation necessary. In this case, the monitoring process shall be repeated on the occupation of the Xth dwelling, X being the revised number of permitted occupations prior to mitigation becoming necessary minus 75; or
 - The traffic generation of the full development can be safely accommodated by the existing A249/A2500 Roundabout layout and therefore the approved mitigation is no longer needed.

The methodology shall set out how any review of traffic impacts shall be informed by up-to-date transport evidence including appropriate traffic modelling capable of satisfactorily replicating the operation of the SRN including junction interactions and network constraints, with reported results.

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- 32) Subject to the outcome from the Highways Monitor and Manage Mitigation Strategy confirming that physical mitigation works to the A249/A2500 Roundabout are required, no occupation beyond the agreed quantum of dwellings hereby approved shall take place until the improvement scheme identified and approved in writing by the Local Planning Authority has been completed and open to traffic.
- 33) Prior to the commencement of development a lighting design strategy for biodiversity for the site boundaries has been submitted to and approved in writing by the Local Planning Authority. The lighting strategy shall:
- Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important foraging and commuting routes; and
 - Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit shall not disturb or prevent bats using their territory.
- 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.
- 34) Prior to the installation of any external lighting, in a particular phase, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority.
- 35) Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment and Outline Drainage Strategy prepared by Paul Graveney Consulting Ltd (Issue 2 dated 22 April 2022) 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 include details of measures to mitigate the risk of flooding along watercourse corridors and land low spots. The details shall include consideration of flood resilience measures, exceedance routes away from buildings and finished floor level for any dwellings close to these locations.
- The drainage scheme shall also demonstrate (with reference to published guidance) that appropriate operational requirements for each drainage feature or SuDS component are adequately considered and that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- The drainage scheme shall be implemented in accordance with the approved details.
- 36) Prior to the commencement of development a SuDS Maintenance Schedule shall be submitted to and approved in writing 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.

- 37) 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 in writing 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.
- 38) Prior to the commencement of development, details of measures to be undertaken to divert the public sewers/water mains along with a timetable for the completion of these measures, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be fully implemented in accordance with the approved timetable.
- 39) No development beyond the construction of foundations shall take place until details have been submitted to and approved in writing by the Local Planning Authority, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.
- 40) All non-residential buildings hereby approved shall be constructed to BREEAM 'Very Good' Standard or an equivalent standard and prior to the use of the buildings the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.
- 41) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day.
- 42) Prior to the commencement of development the final layout locations of properties on the site and their associated amenity areas shall be submitted to and approved in writing by the Local Planning Authority together with a further noise assessment identifying properties that require noise mitigation measures and full details of any proposed measures. Upon approval by the Local Planning Authority the noise mitigation measures shall be implemented in full prior to occupation of the dwellings and retained thereafter.
- 43) 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.