

<b>2.6 REFERENCE NO - 14/504665/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Demolition of existing garages and boundary wall and construction of three detached 3 bedroom house with associated landscaping parking and access			
<b>ADDRESS</b> The Vicarage Church Lane Newington Kent ME9 7JU			
<b>RECOMMENDATION</b> Approval subject to amendments to address overlooking, landscaping, parking for unit 1 and the design of the road, the expiration of the consultation period and no new issues being raised.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
<p>The principle of the development is accepted given the sustainable location of this application site and the need for housing in general. The proposal would have no detriment to visual amenities in my view but I have asked for amendments to the hard and soft landscaping within the site as detailed in the report. The proposal would have no impact on existing properties in terms of an overshadowing, overbearing or overlooking impact. However, I am concerned about the potential for the rear garden of Unit 1 to be overlooked. This will need to be addressed in the amended plans. With regards to highway safety/amenity, the comments of Kent Highways are awaited but given the scale of the development, do not consider that the proposal would cause a significant increase in traffic on local roads. The impact of the proposal on protected species will be carefully controlled by condition. As such, I do not consider that the proposal would have any detriment to ecology or biodiversity.</p>			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Parish Council objection			
<b>WARD</b>	Hartlip, Newington & Upchurch	<b>PARISH/TOWN COUNCIL</b>	Newington
<b>APPLICANT</b>	Mr Julian Hills	<b>AGENT</b>	Mr Michael Gibbs
<b>DECISION DUE DATE</b>	09/12/14	<b>PUBLICITY EXPIRY DATE</b>	09/12/14
<b>OFFICER SITE VISIT DATE</b>	18/11/14 & 01/09/15		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/14/0180	Demolition of existing garages and boundary wall and construction of one detached 3 bedroom house, two 3 bedroom semi-detached houses and a terraced house consisting of two four bedroom units and one three bedroom unit with associated landscaping, parking	Withdrawn	14.08.14

## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

- 1.01 The application site totals 0.18ha and lies within the village of Newington within the built-up area boundary. The site currently comprises the side and rear garden of The Vicarage, a large detached two storey dwelling that would have been constructed in the early 1980s although the planning history does not confirm this. This property has a small pitched roof outbuilding and a flat roof garage with a parking space to the front located close to Church Lane. The ground is relatively flat across the site but is approximately 1m higher than Church Lane and the adjacent housing at Vicarage Court to the north.
- 1.02 There is a TPO (TP no. 2/2014) tree located to the front of the existing dwelling. This would be untouched by the proposal. There are a number of mature trees within the application site. The site lies 160m to the north of the Newington High Street Conservation Area.
- 1.03 The surrounding area is characterised by residential properties of different types and designs. The land to the west of the application site is used as agricultural fields.

### **2.0 PROPOSAL**

- 2.01 The proposal is for the erection of three detached two storey dwellings. A new vehicular access is proposed off Church Lane and this would provide access to the parking spaces for the existing and proposed dwellings. The existing access would be reinstated as footway. Three parking spaces are shown to be provided for the existing dwelling and two parking spaces are proposed for each of the new dwellings with two additional spaces available for visitors. The existing outbuilding, flat roof garage and front boundary wall would be demolished and some of the existing trees (excluding the TPO tree) would be removed.
- 2.02 Each property would have generously sized rear gardens. The houses would have pitched roofs with gable features, chimneys and canopies outside the front doors. The main ridge heights would be 500mm higher than The Vicarage and roughly the same height as the properties to the south.
- 2.03 Unit 1 would be located towards the front of the site, close to no. 65 Church Lane and set forward of The Vicarage by 10m. Units 2 and 3 would be located towards the rear of the site, behind The Vicarage. There would be a distance of 21m between the rear elevation of The Vicarage and the front elevation of unit 3.
- 2.04 The scheme has been amended to reduce the number of units on this site. The original proposal was for one detached 3 bedroom dwelling and four semi-detached 3 bedroom dwellings. The semi-detached houses had rooms within the roof space. The reduction in the number of units was as a result of negotiations between the planning officer and the applicant following concerns

about the over-development of the site and the resulting concerns in respect of preserving the tree cover along the southern and western boundaries. The new dwellings would now have no rooms within the roof space.

- 2.05 Further amendments to the scheme have been sought and amended plans are awaited. The required amendments are identified within the discussion section.

### 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Approximate Ridge Height (m)	7.5m (The Vicarage)	8m	
Approximate Eaves Height (m)	5m (The Vicarage)	5m	
No. of Storeys	2	2	0
Parking Spaces	2	11	9
No. of Residential Units	1	4	3
No. of Affordable Units	0	0	0

### 4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)  
 National Planning Practice Guidance (NPPG)  
 Swale Borough Local Plan 2008: E1; E19; E24, H2 & T3

### 5.0 LOCAL REPRESENTATIONS

- 5.01 Objections have been received from eight local residents. A summary of their comments is as follows:

- Inappropriate garden development, the garden is too small for the size of development, could set a precedent;
- Buildings are too high and not in keeping with existing 2 storey homes;
- Highway issues – narrowness of road, congestion, additional access close to existing accesses would be unsafe, emergency vehicles get stuck at the railway bridge.
- Already problems with drainage, sewerage and electricity supply;
- Poor air quality made worse by increased traffic;
- The Transport Statement does not take into account the fatality that happened some years ago and underplays the traffic volumes in the area. The traffic survey was undertaken in the summer when more parents walk their children to school;
- The loss of mature trees within the site would be detrimental to ecology and question how biodiversity would be enhanced;
- Affordable housing has not been taken into account, starter homes are needed;

- Reference made to the previous application – SW/14/0180 and the comments made by local residents to that proposal;
- Cumulative harm as a result of development in the area – lack of infrastructure, road congestion and safety;
- The proposed access will remove valuable on-street parking along Church Lane;
- The proposed parking to the front of The Vicarage will detract from visual amenities and;
- The proposed finishing materials are not in-keeping with the surrounding properties;
- A refused application for nine dwellings is cited – SW/05/1406 as supporting a refusal for this proposal.

## 6.0 CONSULTATIONS

6.01 Newington Parish Council object to the proposal as originally submitted and as amended on the following grounds:

- Development on garden land is discouraged by the NPPF. The garden is used for church events and the 'outbuilding' was used for meetings, Sunday school and choir practice. The front garden of The vicarage is an important feature of the street scene. The garden is not brownfield land;
- Detrimental to visual amenities – not in-keeping;
- Overshadowing/loss of outlook to local residents;
- Overlooking of Vicarage Court;
- Increased traffic – unsustainable pressures on the road and cumulative harm along with other development in the area. The traffic survey is inadequate and misleading. Traffic movements during the winter months are not captured;
- The proposed access from Church Lane removes valuable on-street parking;
- The proposal will increase on-street parking causing vehicles to park closer to accesses which would be a hazard;
- Kent Highway should be asked to look at speed, parking and emergency access;
- Air quality would be affected by increased traffic;
- Members are invited to witness the road at school drop-off time which will demonstrate the congestion at this time;
- Insufficient capacity for drainage, water systems and electricity supplies;
- Lack of children's play facilities on this side of the village;
- Family homes do not address the local housing need;
- Loss of trees which provide a habitat for nesting birds and resting points for bats;
- Adverse impact on nature conservation interests and biodiversity opportunities;
- Layout and density, building design and finishing materials and;
- The Local Development Framework clearly states that Newington cannot be considered for large scale development because of the lack of suitable road infrastructure and existing congestion.

- 6.02 The Climate Change Officer notes that the applicant aspires to Code level four of the Code for Sustainable Homes which is encouraged.
- 6.03 KCC Ecology are satisfied with the ecological information submitted and agree to the proposed mitigation strategy for bats and recommend a suitable condition and consideration of guidance on bats and lighting. They recommend that a soft felling approach is taken to one of the trees at the site. With regards to reptiles, they accept that an off-site receptor site will be the most appropriate mitigation. An appropriate condition to deal with this mitigation is recommended. The recommendations for biodiversity/ecology enhancements are accepted but a condition is required to secure them.
- 6.04 The Council's Tree Consultant notes that many of the trees on the site will need to be removed due to their close proximity to the new houses or parking bays. He has no objection to the loss of the trees towards the centre of the site as they have limited amenity value. However, the trees along the southern boundary are more prominent and their loss would have an impact on local amenity. The amended layout needs to give further consideration to the trees that would be removed and those that are retained and the scheme should be designed around the retained trees in order to preserve them for as long as possible. No tree protection measures or impact assessment has been submitted.
- 6.05 Southern Water requires an application to them for connection to the foul sewer and recommend an informative to make the developer aware of this.

## **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Existing and proposed plans and elevations; site location plan; site layout; Phase 1 Habitat Plan; Design and Access Statement; Transport Statement; Bat Emergence Survey; Extended Phase 1 Report and; Arboricultural Survey and Constraints.

## **8.0 APPRAISAL**

### **Principle of Development**

- 8.01 Local residents and the Parish Council refer to national guidance resisting the development of residential gardens. However, their interpretation of paragraph 48 of the NPPF is incorrect. This paragraph relates to how Local Planning Authorities should consider suitable windfall sites in terms of a five year housing land supply for Local Plan proposes. It does not seek to prevent the residential development of garden land and there is no in principle objection to the development of garden land.
- 8.02 The site lies within the built-up area boundary and is therefore considered to be a sustainable location for new housing development of a scheme this size. I note that the adjacent site – Vicarage Court has recently been developed for housing and this has a greater density than the current proposal. There is a

general need for additional houses across the borough and I consider that this scheme would go some way towards contributing toward this need. Local residents and the Parish Council are concerned about the fact that housing need for the area is for smaller starter or affordable homes. Although this scheme could not be described as providing said homes, there is no in principle policy objection to the provision of family homes such as this. I therefore consider that the proposal would be acceptable in principle.

- 8.03 I am seeking further clarification from the applicant in respect of the use of the 'outbuilding' to be demolished which, if previously used for community purposes as the Parish Council suggest, would need to demonstrate that it is no longer needed by the Church or by other community groups. I will update Members at the meeting but am mindful that the demolition of this building could take place in any case subject to the service of a demolition notice on the Council. The use of the garden for church events would have been entirely at the discretion of the occupant of The Vicarage and events would have been occasional. I do not consider that the development of the land would be detrimental to the community in this respect.

### **Visual Impact**

- 8.04 The most prominent of the proposed dwellings would be unit 1. This would be a comparable height and scale to the adjacent houses and would be of a good standard of design in my view. The surrounding properties are a mix of types and design and the proposal would simply add to this mix whilst respecting the more traditional and rural feel of the village. There would be no detriment to the street scene in my view. The two proposed dwellings to the rear would be far less prominent from Church Lane and I am of the view that the same conclusions reached for unit 1 apply to these properties. I consider it prudent to remove permitted development rights for extensions and alterations to the dwellings, in order to control future works which might compromise the design quality, and therefore the visual impact, of the development.
- 8.05 The proposal would introduce parking immediately to the front of The Vicarage. Whilst this can often result in parking dominating the street scene, in this case, the spaces are set back 8.8m from the back edge of the footpath and there is a very large front garden area which is turfed and has trees, including the protected tree. This would ensure that parking does not dominate this frontage in my view. The current proposal shows that the parking for unit 1 would be provided to the rear of the site, remote from the front door of the dwelling. This will be inconvenient for the residents of unit 1 and be likely to result in parking on the proposed access road. It is far better to build more convenient parking into the development in my view and so I have encouraged the applicant to amend the scheme to provide one space to the front or side of the dwelling with the additional space immediately to the rear of the garden. In terms of the visual impact of a parking space to the front of unit 1, I am of the view that, as with the parking for The Vicarage, the front garden can adequately accommodate one parking space without

detriment to visual amenities. I am though awaiting the amended plans to show this.

- 8.06 The proposal currently shows a 5.5m wide tarmac surfaced road with a block-paved footpath to one side. I am of the view that the proposed road is over-engineered and does not need to be so wide for such a small scale development. I have encouraged the applicant to consider reducing the width of the road and providing a shared surface for pedestrians and vehicles with a much more domestic surface such as block-paving. This would improve the appearance of the development in my view and would be more appropriate for the scale of the residential development within this village environment. Amended plans are awaited.
- 8.07 With regards to the trees at the site, I have encouraged the developer to be realistic about the trees that would have to be removed as a consequence of the proposal. This would take into account the trees that might be able to remain on site initially but will be likely to fail over time due to their roots being close to hardstanding areas and/or those trees that would dominate gardens and therefore, result in future residents wishing to removed them. The aim is to ensure that those trees that are considered to add significantly to the amenity value of the area are retained, with the development designed to ensure that the trees are not compromised over the long-term. At present, the plans show a large number of the trees retained that would be likely to be removed in the medium to long-term. I have requested amended plans to address this issue. However, Members should be clear that the trees in question are not protected under a TPO and so could be removed at any point. I am recommending a condition to ensure that the trees that are shown to be retained will be protected during construction and that they are retained for a period of five years from the date of completion of the development. I have also asked the Council's Tree Consultant to assess whether any of the trees around the boundaries of the site are worthy of a TPO. I will update Members at the meeting.
- 8.08 I have asked the applicant to change the boundary fences to walls where they would be adjacent to the road as this offers better long-term amenity value. The walls would also then be set back from the road by at least 700mm to allow shrubs or a hedge to be planted. This would soften the appearance of the public areas of the development. I have also discouraged the proposed picket fence to the front boundary of the site as I consider that this would not be in-keeping with the area. Instead I have suggested a dwarf wall with railings to reflect the Vicarage Court development or an open frontage to reflect the houses opposite. I await amended plans.
- 8.09 For the finishing materials, I have encouraged the applicant to consider bricks that are more of a mixed/varied blend but this can be dealt with by a suitably worded condition as recommended below.
- 8.10 Overall, I consider that, subject to the amendments suggested above, the development would not detract from the visual amenities of the area and

would achieve a good standard of design that it in-keeping with the character and appearance of the area.



### **Residential Amenity**

- 8.11 The proposed dwellings would be positioned so that there would be very little, if any, overshadowing or overbearing impact. Unit 3 would be a sufficient distance (21m) from the rear of The Vicarage to ensure that there would be no mutual overlooking introduced between these properties. The 21m separation will ensure that overlooking from unit 3 into the rear garden of The Vicarage causes no significant harm to the residents of this existing property. Unit 3 would be further still from the rear of the flats within Vicarage Court, thereby ensuring that mutual overlooking between windows is minimised and causes no significant harm.
- 8.12 The proposal, as it currently stands, would result in overlooking from the first floor side windows within The Vicarage into the rear garden of the proposed unit 1. The applicant has been asked to consider this concern further and I am awaiting amended plans. This may involve obscure glazing the windows within The Vicarage or providing some sort of permanent screening of a sufficient height to ensure that overlooking does not take place. I will update Members at the meeting.

### **Highways**

- 8.13 This proposal falls below the threshold upon which a consultation with Kent Highways would be triggered. However, I have asked them for their comments as a consequence of the concerns raised by the Parish Council in respect of highway matters. I will update Members at the meeting. I anticipate that Kent Highways will be commenting on the submitted Transport Assessment in their assessment of the proposal. However, the proposal would meet the parking standards set out in IGN3 – Residential Parking Standards and as there would only be three additional dwellings proposed for this site, I do not consider that there would be a significant increase in traffic on local roads.

### **Other Matters**

- 8.14 The application site would provide three new dwellings within 2.5km of The Medway Estuary and Marshes Swale Special Protection Area. Appended is a Habitat Regulations Assessment as required by the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations) due to the sites proximity to the SPA and the potential for recreational disturbance as a cumulative impact with other small housing developments. This concludes that there would be no significant effects from the proposal on the SPA features of interest.
- 8.15 The application is accompanied by an extended phase 1 ecology report and a Bat Emergence Survey. This identifies that bats may use one of the trees to be removed on site and that a single bat is likely to have a roost within the outbuilding that is to be demolished. A small reptile population was also found within the application site - slow worms and one common lizard. KCC

ecology are content that the mitigation strategies set out within the report will be sufficient to ensure that there is no harm to protected species. They do though ask that conditions are applied which would ensure that the mitigation is carefully controlled. I have recommended suitably worded conditions below. These conditions also include the requirement to provide further details of an ecological enhancement plan.

## 9.0 CONCLUSION

- 9.01 Having considered the relevant planning policies, comments from the Parish Council and local residents, I am of the view that the development should be approved subject to some amendments. The principle of the development is accepted given the sustainable location of this application site and the need for housing in general. The proposal would have no detriment to visual amenities in my view but I have asked for amendments to the hard and soft landscaping within the site as detailed above. The proposal would have no impact on existing properties in terms of an overshadowing, overbearing or overlooking impact. However, I am concerned about the potential for the rear garden of Unit 1 to be overlooked. This will need to be addressed in the amended plans. With regards to highway safety/amenity, the comments of Kent Highways are awaited but given the scale of the development, I do not consider that the proposal would cause a significant increase in traffic on local roads. The impact of the proposal on protected species will be carefully controlled by condition. As such, I do not consider that the proposal would have any detriment to ecology or biodiversity.

## 10.0 RECOMMENDATION – GRANT Subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reasons: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in accordance with the following approved drawings: **to be added once amended plans received.**

Reasons: For the avoidance of doubt and in the interests of proper planning.

3. Upon completion, no further development, whether permitted by Classes A, B, C, D or E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Reasons: In the interests of the amenities of the area.

4. Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no gates, fences, walls or other means of enclosure shall be erected or provided in advance of any wall or any dwelling fronting on a highway without the consent in writing of the Local Planning Authority.

Reasons: In the interests of residential amenity.

5. 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 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reasons: In the interests of residential amenity.

6. Prior to the commencement of development hereby approved, full details of the method of disposal of foul and surface waters shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reasons: In order to prevent pollution of water supplies and localised flooding.

7. Prior to the commencement of development hereby approved, a programme for the suppression of dust during the demolition of existing buildings and construction of the development shall be submitted to and approved by the Local Planning Authority. The measures shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

Reasons: In the interests of residential amenity.

8. During construction of the development adequate space shall be provided on site, in a position previously agreed by the Local Planning Authority to enable all employees and contractors vehicles to park, load and off load and turn within the site.

Reasons: In the interests of highway safety and convenience.

9. Adequate precautions to be previously agreed in writing by the Local Planning Authority, shall be taken during the period of demolition and construction to prevent the deposit of mud and/or other debris on the public highway.

Reasons: In the interests of highway safety and convenience.

10. The area shown on the submitted plan as car parking and turning space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reasons: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity.

11. Pedestrian visibility splays 2 m x 2m with no obstruction over 0.6m above the access footway level shall be provided each vehicle access prior to the first occupation of the dwellings hereby approved.

Reasons: In the interests of highway safety and convenience.

12. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, ), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

13. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

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

14. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

15. Prior to the commencement of development hereby approved, details of the external finishing materials to be used on the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reasons: In the interest of visual amenity.

16. Prior to the commencement of development hereby approved, details shall be submitted to the Local Planning Authority for approval in writing, 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 as approved.

Reasons: In the interest of promoting energy efficiency and sustainable development, and in pursuance.

17. All trees to be retained must be protected by barriers and ground protection at the recommended distances as specified in BS5837: 2012 'Trees in relation to design, demolition and Construction - Recommendations' before any equipment, machinery or materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reasons: To safeguard the existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

18. Prior to the commencement of development hereby approved, details of the mitigation to address the presence of bats at the site (within the building(s) to be demolished and trees to be removed) shall be submitted to the Local Planning Authority for approval in writing and shall thereafter be implemented in accordance with the approved details.

Reasons: In the interests of ensuring that no harm comes to protected species known to be present at the site.

19. Prior to the commencement of development hereby approved, details of the soft felling approach to be applied to T3 as identified by the ecological survey shall be submitted to the Local Planning Authority for approval in writing and shall thereafter be implemented in accordance with the approved details.

Reasons: In the interests of ensuring that no harm comes to protected species that may be present at the site.

20. Prior to the commencement of development hereby approved, details of the mitigation strategy to be employed for the transrelocation of reptiles within the site shall be submitted to the Local Planning Authority for approval in writing and shall thereafter be implemented in accordance with the approved details. These details shall include the location of the proposed receptor site; results of the reptile survey of the receptor site; confirmation that the carrying capacity of the receptor site is sufficient; details of any enhancements to increase carrying capacity of receptor site; proposed transrelocation methodology and; timings of proposed works.

Reasons: In the interests of ensuring that no harm comes to protected species known to be present at the site.

21. Prior to the commencement of development hereby approved, details of ecological enhancements to be introduced at the site shall be submitted to the Local Planning Authority for approval in writing and shall thereafter be implemented in accordance with the approved details.

Reasons: In the interests of enhancing ecology and biodiversity at the site.

22. Prior to the first use of the new vehicular access hereby approved, the existing vehicular access to the application site from Church Lane shall be reinstated as footway in accordance with details that shall have first been approved by the Local Planning Authority.

Reasons: In the interests of highways amenity.

23. Upon completion, no further development, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reasons: In the interests of the amenities of the area

24. Any additional conditions recommended by Kent Highways or the Council's Tree Consultant.

Informative:

1. The applicant is advised to follow the guidance of the Bat and Conservation Trust – *Bats and Lighting in the UK* in the lighting design for the development.
2. A formal application for a connection to the public sewage system is required in order to service this development. Please contact Southern Water.

**The Council's approach to this application:**

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

## **Appendix A:**

### **Habitat Regulations Assessment**

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 2.5km to the south of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

It is the advice of NE that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects: financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG) and; the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed.



**However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.**

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.