

**REPORT SUMMARY**

<b>REFERENCE NO - SW/13/1455</b>			
<b>APPLICATION PROPOSAL</b>			
Outline planning application for the residential development (of up to 431 dwellings).			
<b>ADDRESS</b> Land At Harps Farm, Parcels D,E,F & G, Thistle Hill, Minster, Sheerness, Kent			
<b>RECOMMENDATION: Grant of Planning Permission</b> subject to:-			
1) imposition of conditions and			
2) the signing of Section 106 agreement/s for contributions towards:-			
<ul style="list-style-type: none"><li>• Education;</li><li>• Libraries;</li><li>• Community Learning;</li><li>• Adult Social Care;</li><li>• Youth Services;</li><li>• Highways improvements to the junction of the Lower Road/ Barton Hill junction (roundabout scheme);</li><li>• Provision of ‘wheelie bins’;</li><li>• Use of local labour / apprenticeships;</li><li>• SPA mitigation;</li><li>• Open space / play equipment off-site formal sports provision;</li><li>• Health care contribution; and</li><li>• An administration charge;</li></ul>			
3) Further information to address the matters raised by KCC Ecology and to KCC Ecology subsequently raising no objection; and			
4) Further representations (closing date 22 <sup>nd</sup> August)			
<b>SUMMARY OF REASONS FOR RECOMMENDATION FOR APPROVAL</b>			
The application site is allocated in both the emerging and the adopted Local Plans for residential development, and is in accordance with the relevant National and Local Plan policies.			
<b>REASON FOR REFERRAL TO COMMITTEE:</b>			
(1) More than three objections from third parties and referred by Head of Planning as being sufficiently major; and			
(2) Authority to enter into Section 106 agreement.			
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN COUNCIL</b> Minster On Sea	<b>APPLICANT</b> Mr Peter Taylor <b>AGENT</b> Matthew Blythin	
<b>DECISION DUE DATE</b>	<b>PUBLICITY EXPIRY DATE</b>	<b>OFFICER SITE VISIT DATE:</b> Various, including 25 July 2016.	
<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/95/102	Outline permission for residential development, a village centre, community facilities and open space.	Approved	September 1997

SW/04/1059	This permission effectively extended the deadlines for reserved matters details to be submitted, and for the dwellings to be constructed.	Approved	September 2005
Members will note that in addition to the above permissions, the wider site has been subject to a significant number of planning approvals - predominantly for reserved matters details of the housing layouts, landscaping etc – but these do not warrant specific mention in this instance.			
16/504266/FULL	Land At Lavender Avenue, Minster-on-sea	Pending	
15/505670/FULL	Erection of a 1366 sq.m (GIA) foodstore (A1) and four small retail units within Class A1, A2, A3, A5, and D1 (186 sq.m GIA in total) together with associated access, car parking, service yard and plant, click and collect facility, trolley bays and landscaping.	Approved	8/7/2016
15/507059/OUT	Outline application (with all matters reserved other than access into the site) for a residential development with associated landscaping, parking and public open space – Plover Road, Minster.  Members will note that the S106 will include a financial contribution of £1006 for each of the 97 dwellings.	Resolved to approve at the Committee meeting on 30 June 2016.	

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

1.01 The application site forms the northern part of the wider Thistle Hill development (which extends to approximately 70 hectares), and which in turn is located at the south-eastern corner of Minster-on-Sea. Thistle Hill is otherwise largely built-out (with 1213 dwellings having been completed as of June 2015; the results of the 2016 count are not yet to-hand) and has a number of facilities, including a primary school (which recently opened on land just to the south of the application site) and community hall, and various areas of open space, including an established Community Woodland. Planning permission has recently been granted for an Asda supermarket, on land at Plover Road, which would serve Thistle Hill and the wider Minster area.

1.02 The application site is bisected by Heron Drive, which runs north from Thistle Hill Way to connect with the Lapwing Close development, which was completed some years ago (the 2<sup>nd</sup> parcel of Thistle Hill to be approved) and which will border Parcels E (to the north), F (to the north-east) and G (to the north and west); the site also has frontages with Fleetwood Close (to the west), Blatcher Close and Harps Avenue (to the north) and Scocles Road (to the east).

1.03 The site area is 10.77 hectares (or 26.7 acres), and the topography is gently undulating with a range of levels from approximately 18 metres above Ordnance

datum (AOD) at the northern end of the eastern-most parcel of the site (Parcel G), close to the boundary with Harps Avenue, and about six metres AOD at the south-western corner of Parcel F, close to the Fleetwood Close and the northern end of Parish Road.

- 1.04 The Flood Risk Assessment notes that “...*the south west boundary of the larger western portion of the site (Parcels D, E and F) is formed by the Scrapsgate Drain,*” which as Members may be aware is managed by the Lower Medway Internal Drainage Board (LMIDB).
- 1.05 The site was previously in agricultural use, but is currently unused pending the potential grant of planning permission for residential development; as set out in the Design and Access Statement (at paragraphs 5.5 and 5.6), the land is “...*unmanaged and of little physical or visual amenity...and...is bounded by [a limited number of] trees and hedgerows...*”
- 1.07 There are no public rights of way crossing the site, though public footpath ZS9 runs across Thistle Hill just to the south of the site’s southern boundary.

## 2.0 PROPOSAL

- 2.01 Outline planning permission is sought for the erection of up to 431 dwellings, with all matters of detail reserved for subsequent consideration on land at Harps Farm, Minster. The site is known as Parcels D, E, F and G of Thistle Hill. Accordingly, if planning permission were to be granted, a subsequent application (s) would need to be made in respect of the reserved matters, namely access, landscaping, layout, scale and appearance.
- 2.02 For Members’ information, the application initially sought approval for ‘up to 500 dwellings’, but this has been reduced to ‘up to 431’ in order to bring it into line with the adopted Development Brief relating to the undeveloped parts of the wider Thistle Hill development and to reflect the fact that there is a current full application for nine dwellings (reference 16/504266/FULL) on land that formed part of the original site area for this scheme. The red edge boundary has been amended to omit the land the subject of this application.
- 2.03 As set out above, vehicular access is reserved for future consideration, but the indicative details suggest that the vehicular access points could be from Heron Drive (for Parcels D, E and F) and from Heron Drive but via the existing development on its eastern side [Jones Homes (Southern) 90 dwellings approved under SW/09/0613], for Parcel G.
- 2.04 Although car parking would be dealt with at the reserved matters stage, Members will note that the Planning Statement states (at paragraph 6.5.8) that “*the indicative layout illustrates how approximately 850 car parking spaces could be provided throughout the site...*” Since the drafting of this document, the scheme has been amended to propose ‘up to 431 dwellings’. However, this reduction in development density will free-up land for the provision of such car parking spaces as may be required at the reserved matters stage.
- 2.05 With regard to the density of development, the provision of 431 dwellings on the site area of 10.77 hectares, would give a gross density of 40.02 dwellings per hectare. Members will note the indicative ‘Density Plan’, showing how the density of development could be varied across the site.

2.06 With regard to possible storey heights, the indicative 'Storey Height Plan' plan suggests a scheme of predominantly two storey dwellings, with limited amounts of 2.5 and three storey buildings. A condition is included below to ensure that the dwelling heights do not exceed three storeys.

2.07 The following supporting documents have been provided:

- i) A Master Plan, a Density Plan, a Storey Height Plan, and a Layout Plan, but these indicative and are purely to give an indication of how the land could be developed to provide up to 431 dwellings;
- ii) A site location plan has also been submitted;
- iii) A 'baseline ecological site audit update report' (May 2016);
- iv) Planning Statement Addendum;
- v) Management Plan for Biodiversity (July 2016);
- vi) Transport Statement – update letter June 2016;
- vii) Transport Assessment (November 2013);
- viii) Design and Access Statement;
- ix) Planning Statement (November 2013);
- x) Flood Risk Assessment and Drainage Strategy (September 2013);
- xi) Arboricultural Implication Study (September 2013);
- xii) Great Crested Newt Survey Report;
- xiii) Reptile Survey Report; and
- xiv) Appropriate Assessment Screening Document

### 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	10.77		
Parking Spaces	ZERO	To be agreed at reserved matters stage.	
No. of Residential Units	ZERO	Up to 431	
No. of Affordable Units		ZERO	

### 4.0 PLANNING CONSTRAINTS

- 4.01 The application site is located within Flood Zone 1, amounting to an area of low flood risk and being assessed as having a less than 1 in 1000 annual probability of flooding.
- 4.02 There are no listed buildings on the site or immediately adjoining it.
- 4.03 The site is neither in, nor affecting the setting of, a Conservation Area.
- 4.04 None of the trees on site are covered by a TPO.
- 4.05 The site is not located close to an Air Quality Management Area.

## 5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The NPPF has at its core the presumption in favour of sustainable development, and there are, it is suggested, three dimensions to this term: economic, social and environmental.

**Paragraph 7** suggests the following roles for the planning system:

- *“An economic role – contributing to building a strong, responsive and competitive economy...”*
- *A social role – supporting strong, vibrant and healthy communities...; and*
- *An environmental role – contributing to protecting and enhancing our natural, built and historic environment.”*

**Paragraph 9** states that “...pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life...”

The NPPF (see **Paragraph 12**) “...does not change the statutory status of the development plan as the starting point for decision making...development that accords with an up-to-date Local Plan should be approved, and...development that conflicts should be refused unless material considerations indicate otherwise.”

**Paragraph 14** includes the following:

*“At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking.*

...

*For **decision-taking** this means:*

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
  - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
  - *specific policies in this Framework indicate development should be restricted.”*

**Paragraph 18** states that *“the Government is committed to ensuring economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meet the twin challenges of global competition and of a low carbon future.”*

**Paragraph 35** deals with sustainable travel modes, and encourages the use of Travel Plans.

**Paragraphs 47 to 55** seek to significantly boost the supply of housing.

At **Paragraph 47** it states that *“planning authorities should meet local housing needs and identify five year housing land supply with an additional 5% buffer”*.

**Paragraph 49** states *“that housing application should be considered in the context of the presumption in favour of sustainable development”* and that *“Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”*

**Paragraph 49** also confirms that the lack of a 5-year land supply triggers the presumption in favour of sustainable development as set out at Paragraph 14. It is necessary to determine what the relevant policies for the supply of housing are in order to identify which are out of date. What constitutes a policy for the supply of housing has been the subject of legal judgement, which can be interpreted as either policies that have specific and direct impacts on housing supply or more indirect, but significant impacts on supply. Regardless of the approach taken, decision makers can and do take into account whether certain aspects of policies accord with the NPPF. Importantly, the decision maker must apply themselves properly to Paragraph 49.

**Paragraphs 56 to 68** address ‘requiring good design’, and **Paragraph 56** asserts that *“Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”*

**Paragraph 75** states that local authorities should protect and enhance public rights of way and access.

‘Meeting the challenge of climate change, flooding and coastal change’ is addressed at **Paragraphs 93 to 108**.

**Paragraph 93** refers to the key role that planning plays in, among other things, *“...supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.”*

**Paragraph 96, 2<sup>nd</sup> bullet** states that in determining planning applications, local planning authorities should *“take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption”*.

**Paragraph 100** stipulates that *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary making it safe without increasing flood risk elsewhere.”*

The determination of applications is covered at **Paragraphs 196 to 198**, and **Paragraph 197** instructs local planning authorities to *“...apply the presumption in favour of sustainable development.”*

The use of 'planning conditions and obligations' are addressed at **Paragraphs 203 to 206**. To a large extent, these paragraphs advocate the approach set out in Circular 05/ 2005: 'Planning Obligations' [which is now cancelled], the Community Infrastructure Levy (CIL) Regulations (2010), and in particular, Regulation 122 (2), and Circular 11/95 'The Use of Conditions in Planning Permissions'.

And Members will note that **Paragraph 204** states the following:

*"Planning Obligations should only be sought where they meet all of the following tests:*

- Necessary to make the development acceptable in planning terms*
- Directly related to the development; and*
- Fairly and reasonably related in scale and kind to the development."*

However, **Paragraph 205** places an onus on taking account of changes in market conditions and being "...sufficiently flexible to prevent planned development from stalling."

**Paragraph 216** deals with the weight to be given to relevant policies in emerging plans according to:

- *"the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."*

5.02 The following policies of adopted Swale Borough Local Plan 2008 have been 'saved' and are considered to be relevant:

SP1 (sustainable development), SP2 (environment), SP3 (economy), SP4 (housing), TG1 (Thames Gateway Planning Area), SH1 (settlement hierarchy), E1 (general development criteria), E9 (character and quality of landscape), E10 (trees and hedges), E11 (biodiversity in the Borough), E12 (designated biodiversity sites), E16 (archaeology), E19 (design), H2 (new housing), H3 (providing affordable housing), H5 (housing allocations), U1 (servicing development), U3 (renewable energy), U4 (placing services underground), T1 (access to new development), T2 (improvements to highway network), T3 (vehicle parking), T4 (cycle parking), T5 (public transport), C2 (developer contributions), C3 (open space on new housing developments), and H8 (housing development at Thistle Hill).

5.03 The wording for **Policy H8** (which allocates land for housing at Thistle Hill) reads as follows:

#### **"Policy H8**

**Thistle Hill, Minster**

*Policy H5(3) states that the remaining land to be developed at the Thistle Hill site (as shown on the Proposals Map) will provide a further 500 dwellings in addition to the 1,000 dwellings (approximately) which already have planning permission, 30% of which will be provided as affordable dwellings. The precise number of additional dwellings to be provided will be determined by a revised Development Brief and Master Plan for the site. This will be prepared by the developer(s) and submitted to and approved by the Council and will supersede the Development Brief already approved in accordance with the terms of the conditions of the original 1997 planning permission, amended and consolidated in 2005.*

*To ensure that the totality of the completed development makes provision for about 1,500 dwellings across the whole site at a net density of no less than 30dph, the developer(s) shall either obtain a revised planning permission to this effect or enter into an appropriate form of Legal Agreement or Agreements with the Council.*

*In preparing the revised Development Brief and Master Plan, and in determining the precise number of additional dwellings, particular consideration will be given to:*

- 1. The capacity of the local highway network, and any improvements to it that may be required resulting from the traffic arising from the additional number of dwellings to be provided;*
- 2. The capacity of the existing utility structure and any improvements to it that may be required resulting from the demands placed on it by the additional number of dwellings to be provided;*
- 3. The need for new or improved social and community facilities.*

*The Council will only agree to the number of dwellings to be erected on the site to be in excess of the 1,000 (approximately) already permitted after development has commenced on both the Neatscourt and the Ridham and Kemsley employment sites (see [Policy B10](#), [Policy B11](#) and [Policy B21](#))."*

5.04 The following policies of the emerging Local Plan, Bearing Fruits 2031 (Main Modifications June 2016) are considered to be relevant:

ST1 (sustainable development in Swale), ST4 (Local Plan development targets), A7 (housing at Thistle Hill), CP4 (requiring good design), CP7 (enhancing the natural environment), DM7 (vehicle parking), DM8 (affordable housing), DM14 (general development criteria), DM17 (open space and recreation provision), DM19 (sustainable design and construction) and DM28 (promoting biodiversity).

5.05 **Policy A7** relates specifically to Thistle Hill and reads as follows:

**“Thistle Hill, Minster, Isle of Sheppey**

*Planning permission will be granted for land allocated for housing, as shown on the [Proposals Map](#), at Thistle Hill, Minster, Isle of Sheppey. Development proposals will accord with the approved development briefs and satisfactorily address archaeological issues and provide the infrastructure needs arising from the development, including those identified by the Local Plan Infrastructure and Delivery Schedule (including, if justified by a transport assessment, a financial contribution toward improvements to the A2500). Proposals will also ensure that, through both on and off site measures, any significant adverse impacts on European sites*



*through recreational pressure will be mitigated in accordance with Policies CP7 and DM28, including a financial contribution towards the Strategic Access Management and Monitoring Strategy.*

*See also modification to Proposals Map in Chapter 9”*

- 5.06 With regard to Policy DM8, Members will note that in respect of development on the Isle-of-Sheppey there will be ‘*no affordable housing requirement*’. The supporting text explains that the policy is informed by, among other things, viability testing.
- 5.07 The site is also subject to a Development Brief, which was agreed by the Council pursuant to condition (6) of both SW/95/102 and SW/04/1059, the outline planning permissions granted for the development of the Thistle Hill site, in November 2009. As set out on Page 1 of the document, “*the essence of it is to provide a review and update sufficient to address the requirements of the additional development now planned.*”
- 5.08 The document deals specifically with the parcels of land the subject of this application on Pages 29 and 30, and Members will note that development at densities of either 40 dwellings per hectare (dph) or 45 dph is anticipated and that between the four parcels a total yield of 440 dwellings is anticipated.
- 5.09 The Brief also gives some pointers to guide the detail of the housing development on these parcels, including identifying sensitive receptors such as the open countryside to the east (beyond Scocles Road), and I anticipate that if this scheme is approved, this guidance will be applied to control the quality of the reserved matters details.

## **6.0 LOCAL REPRESENTATIONS**

- 6.01 In response to consultation on the original proposal responses were received as set out below.
- 6.02 28 responses raising objection, which are summarised as follows:
- The quality of Jones Homes developments is questioned;
  - The dwellings are likely to be “*ugly, poor-quality rabbit hutches*”
  - Traffic counts are out-of-date and proposed changes to the Barton Hill Drive junction will not solve the traffic flow problems;
  - The Lower Road (A2500) - and the local junctions with it - are considered to be inadequate (due to poor capacity and its bad condition) to provide access from the site to the A249 (at Cowstead Corner) and poses a road safety threat, particularly to cyclists and pedestrians;
  - The A249 has inadequate capacity to accommodate additional traffic;
  - New development should take place at Faversham instead, because Minster has already had too much residential development;
  - Contrary to the submitted documents, the application site is considered to be rich in fauna, particularly nesting birds and insects;
  - Infrastructure generally (and including roads, doctors’ surgeries, A & E provision, shops, pub / restaurant, water supply and schools) is not considered to be good enough;
  - Surface water drainage is already a problem locally and this development could exacerbate the situation;
  - Development in the area is already dense enough and further housing should not be built;

- The density of the development will not allow sufficient space for adequate care parking;
- Will there be sufficient local jobs for the residents of the new dwellings?
- Offices, retail or other employment space should be provided instead;
- The loss of this greenfield area (which should be saved for children and wildlife) would be regrettable;
- Can the deprived local area cope with this new development?
- There is strong local objection to additional development on the Isle-of-Sheppey, and it is time for the Member of Parliament and local councillors to *"listen and take our views forward"*;

6.03 Two responses making general observations, but without explicitly objecting, which are summarised as follows;

- Have plans to make Scocles Road into a cul-de-sac been dropped?
- Local infrastructure will not cope with the additional development;
- Road safety and traffic flow would be jeopardised as a result of up to a thousand extra vehicles on the local roads;
- Development should be set away from existing dwellings to safeguard amenity

6.04 In response to re-consultation on the amended description and additional and amended documents responses were received as set out below.

6.05 Six responses raising objection, and the concerns raised reiterate points set out in the summary at Paragraph 6.1.1 above.

6.06 Swale Footpaths Group note that there is a public right of way just outside the site.

6.07 As set out above, the closing date for comments is 22 August 2016 and I will update Members at the meeting.

## 7.0 CONSULTATIONS

7.01 **KCC Highways and Transportation** have been heavily involved in discussions with the applicant's agent and highway consultant about this application; they initially objected to the application on the basis that the proposed off-site highway works, which then consisted of making changes to the existing traffic-light-controlled junction where Barton Hill Drive intersects with the Lower Road, would not be sufficient to ensure that the traffic generated by the development would have nil detriment to traffic flow on their road network.

The applicant has subsequently agreed to make a financial contribution (of £1006 per dwelling) towards the proposed provision of a roundabout to replace the existing traffic lights. The applicant has also agreed that the contribution – amounting to a total of £433,586 – will be paid in full on commencement of the development, and KCC Highways advise in respect of this *"...as this is likely to enable the construction of the roundabout within a relatively short timeframe given the advanced stage of design that scheme has currently reached."*

KCC Highways have also advise that *"...they are prepared to waive any restriction on the amount of occupations that could take place before the completion of the highway works..."*

With regard to the layout of the development, they advise that the details will: *“...be expected to fit in with the surrounding development and make appropriate provision for linking into the existing footways and cycle provision, as well as respecting the road hierarchy and conforming to the relevant design standards.”*

The conditions they have requested are included below.

- 7.02 The **Highways Agency** raised no objection, noting that the site is allocated in the Development Plan, in response to the original consultation. I await the comments of the successor organisation, **Highways England**, on the amended scheme, and will update Members at the meeting.

- 7.03 **KCC Ecology** have considered the contents of the updated ecological report ('Baseline Ecological Site Audit', dated May 2016) and the subsequently submitted 'Management Plan for Biodiversity' updated July 2016 and consider that additional information is required. In particular, they have requested:

*“(i) Ecological Mitigation strategy – It can be an outline strategy with the remaining information provided as a condition (if granted). But we do expect the location of the receptor site to be confirmed.*

*(ii) Details of additional specific species surveys which are currently being carried out to inform the detailed mitigation strategy.”*

I will update Members at the meeting.

- 7.04 **Natural England** have commented on the original scheme and on the amended scheme (for up to 431 dwellings) and the information submitted in support of it. They raise no objection to the development, but draw attention to the proximity of the site to the internationally and nationally designated ecology sites (namely the Swale SPA, SSSI and Ramsar sites) and also advise that consideration should be given to the implications for protected species that could be present at the site, and to the need to ensure that the scheme incorporates measures to improve biodiversity.

- 7.05 The **Lower Medway Internal Drainage Board (LMIDB)** initially raised objection, but in the light of additional information they no longer object subject to the imposition of suitable conditions to (i) limit the rate of runoff, (ii) safeguard the eight-metre access margin to the Scrapsgate Drain, and (iii) require a detailed assessment of the drainage ditches on site and a commitment to act upon its findings.

- 7.06 The **Environment Agency** raised no objection following consultation on the initial proposal, noting among other things that the site is location in flood zone 1, though they also noted that the area is sensitive in flood risk terms with *“...the Scrapsgate Drain – which is maintained by the LMIDB... - being the primary source of flood risk.”*

In response to consultation on the amended / additional details, the EA *“...have assessed this application as having a low environmental risk. We therefore have no comments to make.”*

- 7.07 The **KCC SUDS Team** were not in existence at the time of the original consultation about this application. I have though consulted them now, and will update Members at the meeting.
- 7.08 The **KCC Public Rights of Way Area Officer** has commented on the application. No objection is raised and it is noted that there are no public rights of way crossing the site. They do, however, suggest that the right of way running just to the south of the

site could be upgraded to a cycle route (with a minimum width of three metres) and that a developer contribution of £100 per dwelling be made to mitigate adverse impacts on local rights of way resulting from the development and to contribute towards the upgrade of the former tramway between Power Station Road and Scrapsgate Road so that it could be recorded as a public right of way.

- 7.09 **Developer Contributions at KCC** have requested the following: £4000 per applicable house and £1000 per applicable (all dwellings of 56 square metres GIA or over) flat for primary education. If the entire development were to be applicable houses, a contribution of £1,724,000 would be payable for primary education.

They have also requested £60.43 per dwelling (or £26,045.33 in total) for community learning, £37.58 per dwelling (or £16, 196.98 in total) for youth services, £48.02 per dwelling (or 20, 696 in total) for libraries and £60.99 per dwelling (or £26,286.69 in total) for adult social care. A contribution is not sought for secondary education.

They also request that a condition be imposed to require that the dwellings are built with the infrastructure for a high-speed broadband connection. I understand that this will shortly be a requirement under the Building Regulations, but am seeking clarification on this point and will update Members at the meeting.

- 7.10 The **Greenspaces Manager** raises no objection, though he has requested contributions for improvements to play equipment (amounting to £100,000) and for off-site formal sports provision (amounting to £224,000). With regard to the adoption of public open space within the site, a commuted sum would be required. For a 440-dwelling scheme this would amount to approximately £80,400. I have asked him to update his request to reflect the fact that the application is now for 431 dwellings. I am also awaiting further information in response to queries from the applicant in respect of the justification for the requested payments. I will update Members at the meeting.
- 7.11 **Sport England** responded to the original consultation and sought contributions in respect of formal sports provision in the wider area. However, there is no statutory requirement to consult with Sport England in this instance and Members with note that Greenspaces Manager has also addressed the issue. I therefore consider that it is not appropriate to pursue Sport England's request.
- 7.12 The **Senior Contracts and Monitoring Officer** has requested a contribution in respect of the provision of wheelie bins for the development. Two bins per house (costing £79) and communal Eurobins to be shared (two per four flats) at £435.40 per bin.
- 7.13 The **NHS CCG** [Clinical Commissioning Group] have requested £380, 160 for expenditure on the upgrading of primary care to serve the increased population of "*1135 for the Minster Medical Centre*". Though subsequent correspondence states that the money would be put towards an upgrade of the Sheppey Community Hospital, and they advise that they already have "*significant capacity issues*" locally. The development has now been reduced by nine dwellings, and taking account of this a contribution of £372, 384 should be sought.

This request is based on their estimate of 2.4 people per dwelling on average and equates to £360 for each of those people.

The applicant is currently disputing the justification for this payment, and I will update Members about this issue at the meeting.

- 7.14 The comments of the **Economy and Community Services Manager** are awaited and I anticipate comments in respect of the requirement for the use of local labour and the provision of apprenticeship places for the construction of the development.
- 7.15 **Housing Services** have responded to consultation on the amended and additional information, and acknowledge that due to the poor viability of development on the Isle-of-Sheppey a requirement for affordable housing cannot be imposed.
- 7.16 The **Climate Change Officer** raises no objection, though a condition is sought to secure Level 4 of the Code for Sustainable Homes. As the Code has been formally cancelled, I have included condition (4) below to secure a package of sustainable design and construction measures for each phase of the development.
- 7.17 **Southern Water Services** responded to the initial consultation advising that they had no objection to the proposals.
- 7.18 The **Environmental Protection Team Leader** raises no objection, subject to conditions in respect of control of construction hours, dust suppression measures, control of impact piling driving hours, and a construction environmental management plan. These conditions are included below.
- 7.19 **Minster Parish Council** commented in response to the original consultation and although they raised no objection. They did make a number of comments, which are summarised as follows:
- The existence of an outline planning permission for housing on the site is acknowledge;
  - The application should be determined by the Planning Committee due to the size of the development and the likely significant impact on Minster as a whole;
  - The density is too great [Members will note, as set out above, that the application proposed up to 500 dwellings at the time of this response, and now proposes up to 431];
  - Development will impact on traffic flow on the A2500;
  - S106 agreement should include upgrading footpaths beyond site to other parts of Minster, particularly to assist school children;
  - Access and turning space within the scheme is of concern;
  - Site is not readily accessible by car;
  - Indicative details for car parking are of concern; and
  - Areas of open water should include safety measures, to minimise public risk.

I will update Members at the meeting if further comments are received from the Parish Council or other consultees.

- 7.20 The comments of the **County Archaeological Officer** are awaited, and I will update Members at the meeting.

## 8.0 BACKGROUND PAPERS AND PLANS

- 8.01 These are set out at Paragraph 2.07 above.

## 9.0 APPRAISAL

- 9.01 The key issues in respect of this application are as follows:

- Principle of development;
- Highway Implications;
- Residential amenity;
- Visual impact;
- Landscaping / Implications for existing vegetation;
- Ecology;
- Developer Contributions; and
- Surface water drainage / flood risk;

### **Principle of Development**

- 9.02 As set out at Paragraphs 5.021 and 5.031 above, this site is allocated in both the adopted and the emerging Local Plans for residential development. Furthermore, the development brief for the site (see paragraphs 5.04 to 5.06 above) anticipates the provision of a total of 440 dwellings on the four parcels of land that make up the application site. The fact that the application envisages a slightly lower number of dwellings, namely up to 431 units, is explained at Paragraph 2.02 above.

In the light of these points, I consider that the development is acceptable as a matter of principle.

### **Highway Implications**

- 9.03 As set out at Paragraphs 7.01 and 7.02 above, both KCC Highways and Transportation and Highways Agency (now Highways England) raise no objection to the application, subject to suitable mitigation in the form of planning conditions and, importantly, a financial contribution (of £433,586) towards the provision of the proposed road upgrade to the Lower Road / Barton Hill Drive junction, where this authority is working with KCC Highways and Transportation to deliver a roundabout.

The applicant is agreeable to making this payment on commencement of the development, and as such the development is considered to be acceptable in terms of its implications for highway safety and traffic flow.

### **Residential Amenity**

- 9.04 I am mindful of the concerns raised by residents of the wider area, but given that the density of development proposed is fully in accordance with the Development Brief and that all matters of detail are reserved for future consideration under separate applications (which local people would be consulted on), I am confident that unacceptable impacts on residential amenity can be avoided through careful control of the details of the layout, scale and landscaping.

In addition, Members will have noted at Paragraph 7.18 above that the Environmental Protection Team Leader raises no objection, subject to conditions, which are included below.

### **Visual Impact / Urban Design**

- 9.05 Given that the site is subject to a Development Brief and that it will amount to an extension to the existing Thistle Hill development, it was considered by the applicants that the scheme need not be subject to a swale design review. I agree with this view,

particularly as the layout and other details of the design will be subject to a reserved matters application (s), which could of course be scrutinised by the Design Panel.

I am firmly of the view, that the approval of reserved matters process will allow the Council to secure a high-quality housing development, and one that sits sympathetically alongside the rest of Thistle Hill and the more established areas of Minster that adjoin the site to the west and north.

### **Landscaping / Implications for existing vegetation**

- 9.06 As noted above, there is limited tree and hedge cover on this site, and clearly this development represents an opportunity to significantly improve the quality and amount of trees on the site. Conditions are included below in order to ensure that existing trees and hedging are retained where the quality merits it and where it is practicable, and to ensure that appropriate new soft landscaping (to benefit visual amenity and biodiversity) is included throughout the new development.

### **Ecology**

- 9.07 I have considered the possible implications of this development for the nationally and internationally designated habitats along the Swale and at Medway Marshes, namely the SPA, Ramsar site and SSSI; Members will note the Habitat Regulations Assessment below.

I note that Natural England raise no objection (see Paragraph 7.04 above), and subject to the payment of the standard tariff of £223 per dwelling to be spent on the mitigation of recreational impacts on the SPA, I consider that the application is acceptable in this regard.

With regard to the possible implications of the development for flora and fauna on the site, Members will note that KCC Ecology are currently not satisfied with the information that has been submitted in respect of safeguarding protected species or the measures to enhance biodiversity as part of the development of the site.

The planning agent is aware of this issue, and I hope to be able to update Members at the meeting.

### **Developer Contributions**

- 9.08 In accordance with the relevant policies of the Local Plan and the guidance set out in the adopted Supplementary Planning Document, 'Developer Contributions' (2009), a range of developer contributions and other S106 items will need to be included in the legal agreement. Discussions with the applicant's planning agent are on-going, and the current position is as follows:

With regard to off-site highway works, Members will note my summary of the comments of KCC Highways and Transportation at Paragraph 7.01 above and that they are seeking a contribution amounting to a total of **£433,586** (or £1006 per dwelling) towards the cost of upgrading the Lower Road / Barton Hill Drive junction.

As set out at Paragraph 7.08 above, the KCC Public Rights of Way Officer is seeking a contribution of £100 per dwelling (or **£43,100**) to be spent on upgrading local rights of way to mitigate possible impacts arising from this development and to ensure that opportunities for non-car modes of travel are maximised. The applicant's agent is aware of this request, and I will update Members as to his response at the meeting.

Further to Paragraph 7.09 above, a total contribution of approximately **£1.8 million** pounds will be payable in respect of contributions sought by KCC Developer Contributions; Members will have noted above that approximately £1.7 million pounds of this will be spent on providing additional primary school capacity.

Members will note the Greenspaces Manager's comments at Paragraph 7.10 above. The planning agent is, as set out above, challenging the amounts sought (which if the open space is adopted by the Council would amount to a total of approximately **£404,000**) in respect of the provision of play equipment and for the provision of off-site formal sports, suggesting that the requests have not been justified. I am awaiting a response from the Greenspaces Manager and will update Members at the meeting.

Further to Paragraph 7.12 above, the Section 106 agreement will also need to include a requirement for a contribution in respect of wheelie bins. The total amount payable will depend upon the final mix of houses and flats.

As set out at Paragraph 7.13 above, the Clinical Commissioning Group are seeking **£372, 384** (or £864 per dwelling) to be spent on providing additional capacity at the Sheppey Community Hospital. Discussions with the applicant's agent are on-going and I will update Members at the meeting.

As set out at Paragraph 7.14, I am awaiting the comments of the Economy and Community Services Manager, and anticipate that the Section 106 agreement will need to include provisions in respect of the use of local labour and apprenticeship provision during the construction of the development.

As set out at Paragraph 9.07 above, in accordance with the Habitat Regulations and the strategy that the Council has agreed in conjunction with other north Kent local authorities, a payment of £223 per dwelling (or **£96,113** in total) will payable for the mitigation of potential recreational impacts on the quality and integrity of the Swale SPA.

In accordance with Policy DM8 of the emerging Local Plan Bearing Fruits 2031 (Main Modifications June 2016) this development will not include a requirement for the provision of any affordable housing units.

Finally, an administration charge to cover, among other things, costs associated with monitoring compliance with the Section 106 agreement will be sought.

### **Surface water drainage / flood risk**

- 9.10 Members will have noted above that the application site is in Flood Zone 1, and therefore is considered to be at low risk of flooding.

As set out above, the Environment Agency initially raised no objection and now consider the development to pose a low environmental risk (see Paragraph 7.06), while the LMIDB (see Paragraph 7.05) raise no objection subject to the imposition of suitable conditions, which are included below.

The views of the LMIDB on the amended details are awaited as are the comments of the KCC SUDS Team, and I will update Members at the meeting.

### **Other Matters**



- 9.11 I am aware that the applicant envisages that development towards the eastern end of the site (on Parcel G) could, subject to planning and reserved matters approval, commence in the quite near future. However, I am mindful that the outline permission would relate to a substantial site and that construction of the whole scheme could take quite a number of years. Therefore and to provide the applicant / potential developers with extra flexibility, I have amended condition (2) below to allow the applicant a maximum of six years for reserved matters details to be submitted, rather than the normal three.

## 10.0 CONCLUSION

- 10.01 The development would provide the final part of the Thistle Hill housing development, and accordingly is allocated for housing development in both the adopted Local Plan and the emerging Local Plan, Bearing Fruits 2031 (Proposed Main Modifications, June 2016). As such, the scheme is acceptable in principle.

- 11.0 RECOMMENDATION – GRANT** Subject to the agreement of an acceptable package of developer contributions (see Paragraph 9.08 above), the signing of a suitably-worded Section 106 agreement, the receipt of consultation responses (closing date 22<sup>nd</sup> August) and the resolution of any issues arising, and to conditions as set out below.

With regard to both the wording of the Section 106 agreement and of conditions, I seek authority to make such amendments as may - in due course - prove to be necessary.

### CONDITIONS to include

- (1) Details relating to the layout, scale and appearance of the proposed building(s), the access thereto and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

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

- (2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of five years beginning with the date of the grant of outline planning permission.

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

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

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

- (4) For each phase of the housing development hereby approved, no development shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures will be 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 of the phase of development in question as approved, and retained as such in perpetuity.

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

- (5) The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner.

- (6) Before the first occupation of a dwelling / premises the following works between that dwelling / premises and the adopted highway shall be completed as follows:
- (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
  - (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
    - (1) highway drainage, including off-site works,
    - (2) junction visibility splays,
    - (3) street lighting, street nameplates and highway structures if any.

Reason: In the interests of highway safety.

- (7) No development of the scheme hereby approved shall take place until a Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. This shall include details relating to:
- (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
  - (ii) The loading and unloading and storage of plant and materials on site;
  - (iii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

- (iv) The control and suppression of dust and noise including arrangements to monitor dust emissions from the development site during the construction phase;
- (v) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
- (vi) Measures to control mud deposition off-site (particularly on public highways) from vehicles leaving the site;
- (vii) The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
- (viii) The use if any of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site;
- (ix) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
- (x) Lighting strategy for the construction phase, designed to minimise light spillage from the application site; and
- (xi) Phasing of the development.

Reasons: To ensure the development does not prejudice conditions of residential amenity, highway safety and convenience, and local ecology, through adverse levels of noise and disturbance during construction.

- (8) The details submitted in pursuance of reserved matters shall show adequate land, reserved for parking or garaging in accordance with the Approved County Parking Standards and, upon approval of the details this area shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before any building is occupied and shall be retained for the use of the occupiers of, and visitors to, the premises. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

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

- (9) All hard and soft landscape works shall be carried out in accordance with the approved details. Unless specified elsewhere, the works shall be carried out prior to the occupation of any part of the phase of the development to which they relate 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 native species and biodiversity.

- (10) 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.

- (11) The details submitted pursuant to condition (1) above shall include cross-sectional drawings through the site, of the existing and proposed site levels, including the relationship of any proposed mounding / re-contouring to existing trees and hedging that are to be retained. The development shall then be completed strictly in accordance with the approved levels.

Reasons: In order to secure a satisfactory form of development having regard to the nature of the site.

- (12) The details submitted pursuant to condition (1) shall include details of strategic landscaping for all those areas of the site not included within a housing parcel. Details shall be agreed in writing before the first occupation of a dwelling on the site or in accordance with a programme to be agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and the character and appearance of the area.

- (13) The landscaping details to be submitted in accordance with condition (1) above in respect of the layout and landscaping of each parcel shall be accompanied by an updated Tree Survey, and shall include:

- (a) a plan showing the location of, and allocating a reference number to each existing tree on the site to be retained and indicating the crown spread of each tree.
- (b) details of the size, species, diameter, approximate height and an assessment of the general state of health and stability of each retained tree.
- (c) details of any proposed arboricultural works to any retained tree, which shall be carried out in accordance with British Standard 3998 (tree work).
- (d) details of any alterations in ground levels and of the position of any excavation or other engineering works within the crown spread of any retained tree.
- (e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development

In this condition "retained tree" means any existing tree which is to be retained in accordance with the drawing referred to in (a) above.

Reasons: In the interests of protecting existing trees which are worthy of retention in the interests of the amenities of the area.

- (14) The details submitted pursuant to condition (1) shall show development limited to no more than three storeys in height.

Reasons: In the interests of visual amenity and safeguarding the character and appearance of the area.

- (15) Prior to the commencement of the development hereby approved full details of the method of disposal of foul and surface waters as part of a detailed drainage strategy shall be submitted to and approved in writing by the Local Planning Authority. This drainage strategy should be based on Sustainable Urban Drainage Systems (SUDS) principle and shall demonstrate that both the rate and volume of run-off leaving the site post-development will be limited to seven litres per second per

hectare. No building shall be occupied until details of the implementation, maintenance and management of the SUDS have been submitted to and approved in writing by the Local Planning Authority and thereafter the scheme shall be implemented, managed and maintained in accordance with the approved details. Such details shall include:-

- 1) a timetable for its implementation
- 2) a management and a maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public or statutory undertaker, or any other arrangements to secure the operation of the SUDS throughout its lifetime.

Reasons: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- (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 – 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.

- (17) No external lighting shall be constructed at the site other than on private domestic residences or in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be designed in a manner that minimises impact on neighbouring residential amenity and bats.

Reasons: In order to prevent potential harm to neighbouring residential amenity and the local bat population.

- (18) Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services and electrical services to be connected to any premises within the application site without resource to the erection of distribution poles and overhead lines, and notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Reasons: In the interests of residential amenity.

- (19) 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 any other day except between the following times:-

Monday to Friday 0900-1700hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reasons: In the interests of residential amenity.

- (20) The details submitted pursuant to condition (1) above shall show a strip of a minimum of eight metres in width from the top of the bank to the Scrapsgate Drain where it adjoins the application site kept clear of development.

Reason: in the interests of minimising flood risk.

- (21) No development shall take place until a detailed assessment of existing drainage ditches on the site has been submitted to and approved in writing by the Local Planning Authority. The details submitted to condition (1) above shall show a layout designed with regard to the findings of this assessment.

Reason: In the interests of minimising flood risk.

- (22) Prior to the works commencing on site details of parking for site personnel / operatives/ visitors shall be submitted to and approved by the Local Planning Authority and thereafter shall be provided and retained throughout the construction of the development. The approved parking shall be provided prior to the commencement of the development.

Reasons: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents.

- (23) During construction provision shall be made on the site, to the satisfaction of the Local Planning Authority, to accommodate operatives' and construction vehicles loading, off-loading or turning on the site.

Reasons: To ensure that vehicles can be parked or manoeuvred off the highway in the interests of highway safety.

- (24) And any further reasonable conditions requested by consultees.

### **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:

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 applicant/agent was advised of changes required to the application and these were agreed. The application was then considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

## **APPENDIX - HABITATS REGULATIONS ASSESSMENT SCREENING**

### **Context**

This HRA has been undertaken with the benefit of information provided by the applicant. 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.*

For proposals likely to have a significant effect on a European site, the Conservation of Habitats and Species Regulations (2010) requires the Council to make an appropriate assessment of the implications for the site. Para. 119 of the NPPF states that *“The presumption in favour of sustainable development ... does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.”*

Given the scales of housing development proposed around the North Kent SPAs, the North Kent Environmental Planning Group (NKEPG) commissioned a number of reports to assess the current and future levels of recreational activity on the North Kent Marshes SPAs and Ramsar sites. NKEPG comprises Canterbury, Dartford, Gravesham, Medway and Swale local authorities, together with Natural England and other stakeholders. The following evidence has been compiled:

- Bird Disturbance Study, North Kent 2010/11 (Footprint Ecology).
- What do we know about the birds and habitats of the North Kent Marshes? (Natural England Commissioned Report 2011).
- North Kent Visitor Survey Results (Footprint Ecology 2011).
- Estuary Users Survey (Medway Swale Estuary Partnerships, 2011).
- North Kent Comparative Recreation Study (Footprint Ecology 2012).
- Recent Wetland Bird Surveys results produced by the British Trust for Ornithology.
- Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014).

In July 2012, an overarching report summarised the evidence to enable the findings to be used in the assessment of development. The report concluded (in summary):

- There have been marked declines in the numbers of birds using the three SPAs.
- Disturbance is a potential cause of the declines. The bird disturbance study provided evidence that the busiest locations support particularly low numbers of birds.
- Within the Medway, the areas that have seen the most marked declines are the area north of Gillingham, including the area around Riverside Country Park. This is one of the busiest areas in terms of recreational pressure.
- Access levels are linked to local housing, with much of the access involving frequent use by local residents.
- Bird disturbance study - dog walking accounted for 55% of all major flight observations, with a further 15% attributed to walkers without dogs along the shore.
- All activities (i.e. the volume of people) are potentially likely to contribute to additional pressure on the SPA sites. Dog walking, and in particular dog walking with dogs off leads, is currently the main cause of disturbance.
- Development within 6km of the SPAs is particularly likely to lead to increase in recreational use.

Natural England's advice to the affected local authorities is that it is likely that a significant effect will occur on the SPAs/Ramsar sites from recreational pressure arising from new housing proposals in the North Kent coastal area. The agreed response between Natural England and the local authorities is to put in place strategic mitigation to avoid this effect – a 'strategic solution.' This provides strategic mitigation for the effects of recreational disturbance arising from development pressure on international sites and will normally enable residential development to proceed on basis of mitigation provided avoiding a likely significant effect.

This strategic approach is set out in the Thames, Medway and Swale Estuaries – Strategic

Access Management and Monitoring Strategy (Footprint Ecology 2014). It will normally require the creation of on-site mitigation, such as the creation of open space suitable for dog walking and, secondly, via payment of a dwelling tariff for off-site impacts. The money collected from the tariff would be used by the North Kent Councils and its partners for mitigation projects such as wardening, education, diversionary projects and habitat creation. The policy context for such actions is provided by policies CP7 and DM28 of the ELP.

### **Associated information**

The applicant's 'Appropriate Assessment Screening Document' April 2014 contains some information to assist the HRA. These matters have been considered.

Natural England's letter to SBC has also been considered; in particular that they have raised no objections to the proposals in terms of their impact on designated nature conservation sites. In advising SBC on the requirements relating to the Habitats Regulations Assessment, and to assist it in screening for the likelihood of significant effects, based upon the information provided, Natural England offered the following advice:

- We recommend that the Council obtain additional information to help undertake a Habitat Regulation Assessment, and that this could include a financial contribution to the strategic approach to managing recreational disturbance in North Kent.

### **The Assessment of Harps Farm**

The application site is located within approximately 2 km of the Swale SPA to the south and south-west of Minster, and there is clearly significant potential for residents of the new development to access the Swale and the Medway Marshes SPAs for recreational purposes, either by walking to the SPAs or by car. The submitted 'Appropriate Assessment Screening Document' identifies a number of adverse impacts on the SPA as a result of proposed new housing in the area, which includes the 431 units the subject of the current application.

### **Conclusions**

Provided that the applicant is prepared to provide on-site mitigation in the form of greenspace and financial contributions towards the SAMM, it leads to the conclusion that the proposals would not give rise to likely significant effects on the SPA. Subject to the applicant confirming that the financial contribution will be paid, it is concluded that the proposals can be screened out for purposes of Appropriate Assessment. These would not lead to likely significant effects on the SPA.

### **INFORMATIVE:**

#### **1. The Environment Agency state:**

Although we have no comments on this planning application, the applicant may be required to apply for other consents directly from us. The term 'consent' covers consents, permissions or licenses for different activities (such as water abstraction or discharging to a stream), and we have a regulatory role in issuing and monitoring them.

The applicant should contact 03708 506 506 or consult our website to establish whether a consent will be required. <https://www.gov.uk/environmental-permit-check-if-you-need-one>



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.