

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 13 October 2022

Time: 7.00 pm

Venue: The Sapling Room, The Appleyard, Avenue of Remembrance, Sittingbourne, Kent, ME10 4DE*

Membership:

Councillors Cameron Beart, Monique Bonney, Richard Darby, Oliver Eakin, Tim Gibson (Chair), James Hall, Mike Henderson, James Hunt, Carole Jackson, Elliott Jayes (Vice-Chair), Peter Marchington, Ben J Martin, Ken Rowles, David Simmons, Paul Stephen, Tim Valentine and Tony Winckless.

Quorum = 6

Pages

Information about this meeting

*Members of the press and public can listen to this meeting live. Details of how to join the meeting will be added to the website.

Recording and Privacy Notice

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When joining a meeting online, your username will be visible to others in attendance. In joining the meeting you are consenting to us processing your username. You may use a pseudonym as your username but the use of an inappropriate name may lead to removal from the meeting.

If you have any questions about how we look after your personal information or your rights under the legislation, please email dataprotectionofficer@swale.gov.uk.

1. Emergency Evacuation Procedure

Visitors and members of the public who are unfamiliar with the building

and procedures are advised:

- (a) No fire drill is planned during the meeting. If the alarm sounds please leave the building quickly without collecting any of your possessions, using the doors signed as fire escapes, and assemble outside where directed.
- (b) Await instructions before re-entering the building.
- (c) Anyone who requires assistance in evacuating the building should make officers aware of any special needs so that suitable arrangements may be made in the event of an emergency.

2. Apologies for Absence

3. Minutes

To approve the [Minutes](#) of the Meeting held on 21 September 2022 (Minute Nos. 291 – 296) as correct records.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPIs) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

Part B reports for the Planning Committee to decide

5. Deferred Items

5 - 52

To consider the following applications:

- 22/501315/FULL, St Mawes, The Street, Borden, Kent, ME9 8JN
- 21/506027/FULL St Saviours Church, Whitstable Road, Faversham, Kent, ME13 8BD

Members of the public are advised to confirm with Planning Services prior to the meeting that these applications will be considered at this meeting.

Requests to speak on this item must be registered with Democratic

Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 12 October 2022.

6. Report of the Head of Planning Services

53 - 206

To consider the attached report (Parts 2, 3 and 5).

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 12 October 2022.

Issued on Tuesday, 4 October 2022

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of the Planning Committee, please visit www.swale.gov.uk

**Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

13 OCTOBER 2022

Standard Index to Contents

DEFERRED ITEMS Items shown in previous Minutes as being deferred from that meeting may be considered at this meeting

PART 1 Reports to be considered in public session not included elsewhere on this Agenda

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

PART 4 Swale Borough Council's own development; observation on County Council's development; observations on development in other districts or by Statutory Undertakers and by Government Departments; and recommendations to the County Council on 'County Matter' applications.

PART 5 Decisions by County Council and the Secretary of State on appeal, reported for information

PART 6 Reports containing "Exempt Information" during the consideration of which it is anticipated that the press and public will be excluded

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) (England) Order 2015

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 13 OCTOBER 2022

- Minutes of last Planning Committee Meeting
- Deferred Items
- Minutes of any Working Party Meetings
-

DEFERRED ITEMS

DEF ITEM 1	22/501315/FULL	BORDEN	St Mawes The Street
DEF ITEM 2	21/506027/FULL	FAVERSHAM	St Saviours Church Whitstable Road

PART 2

2.1	22/501799/FULL	TONGE	Tonge Mill Church Road
2.2	21/504028/FULL	NEWINGTON	Land At School Lane

PART 3

3.1	22/503662/FULL	SHELDIWICH	The Gate House Lees Court Road
3.2	20/503636/FULL	KEMSLEY	The Former Kemsley Arms PH The Square
3.3	22/502340/OUT	LOWER HALSTOW	Land Adjacent Westfield Cottages Breach Lane

PART 5 – INDEX

5.1	21/503221/OUT	SITTINGBOURNE	Land rear of 25 - 29 Station Street
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PLANNING COMMITTEE – 13 OCTOBER 2022**DEFERRED ITEMS**

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM 1 REFERENCE NO - 22/501315/FULL		
APPLICATION PROPOSAL Raising of roof height and insertion of dormer window and roof lights together with two storey front and rear extension as amended by drawing No's. 01.22.06D and 01.22.10A.		
ADDRESS St Mawes The Street Borden Kent ME9 8JN		
RECOMMENDATION Approve, subject to conditions		
REASON FOR REFERRAL TO COMMITTEE Deferred following Planning Committee Meeting of 18 August 2022.		
WARD Borden And Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Mr Scott Hawkins AGENT Jane Elizabeth Architects
DECISION DUE DATE 26/05/22	PUBLICITY EXPIRY DATE 05/05/22	CASE OFFICER Claire Attaway

1. INTRODUCTION

- 1.1 Members will recall that this application was reported to Planning Committee on 18th August 2022 as deferred item 2. The previous Committee Report is attached as Appendix 1 to this report, and the original Committee Report from 23rd June 2022, as Appendix 2.
- 1.2 At the meeting, Members raised concerns that Ward Members had not been involved in any discussions, and it was resolved

“That application 22/501315/FULL be deferred to allow for further discussion with Ward Members to determine an improved design and look at any potential loss of light issues with the neighbouring properties.”

- 1.3 Since the Committee(s), a Site Meeting took place with Officers of the Council, Cllr Baldock, the applicant and agent to have discussions regarding the design of the proposed extension.

2. PROPOSAL

- 2.1 This report is to update Members regarding the amendments to the design of the proposed extension. The revised drawings 01.22.06D and 01.22.10A propose amendments to the design of the boundary front wall and detailing to the front gable.

- 2.2 The proposed front boundary brick wall will match the existing boundary wall to the property known as Thirlmere. It will be of the same height, measuring 0.9m high and have a simple plinth detail.
- 2.3 The black timber featheredged weatherboarding now wraps around the corners of the glazed front gable and a horizontal oak mullion added.
- 2.4 The existing Saint Gargoyle (of which is mentioned in the Character Appraisal and Management Plan for The Street) is to be re-sited on the raised chimney breast.
- 2.5 An additional tree is to be planted behind the roadside boundary wall.

3. CONCLUSION

- 3.1 It is a statutory requirement set out in Section 72(1) of the Planning (Listed Building and Conservation Areas Act) 1990 that in conservation areas local authorities should give '*special attention ... to the desirability of preserving or enhancing the character or appearance of that conservation area*'. In the context of the net effect on the character and appearance of the changes to the conservation area - and given that no material harm would arise in relation to the residential amenity of neighbouring properties – Officers remain of the view that the application is granted planning permission.

4. 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.

Reason: 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 approved drawings, including in accordance with the specification of materials to be used in the construction of the external surfaces of the extension set out thereon:

01.22.02; 01.22.05B; 01.22.06D; 01.22.07; 01.22.09C and 01.22.10A

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

- (3) The proposed roof-lights to bedroom 1 and ensuite on the gable roof of the rear extension hereby permitted shall have a cill height of not less than 1.7m above finished inside floor level and shall subsequently be maintained as such.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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.



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APPENDIX 1

DEF ITEM 2 REFERENCE NO - 22/501315/FULL		
APPLICATION PROPOSAL Raising of roof height and insertion of dormer window and roof lights together with two storey front and rear extension as amended by drawing No. 01.22.09C.		
ADDRESS St Mawes, The Street, Borden, Kent ME9 8JN.		
RECOMMENDATION Grant subject to conditions		
REASON FOR REFERRAL TO COMMITTEE Deferred following Planning Committee Meeting of 23 June 2022.		
WARD Borden and Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Mr Scott Hawkins AGENT Jane Elizabeth Architects
DECISION DUE DATE 26/05/22		PUBLICITY EXPIRY DATE 05/05/22

1. INTRODUCTION

1.1 Members will recall that this application was reported to Planning Committee on 23rd June 2022. The original committee report is attached as Appendix 1 to this report.

1.2 After some discussion in which Members raised some concerns about the proposal, it was resolved

“That application 22/501315/FULL be deferred to allow for further discussion with Ward Members to determine an improved design and look at any potential loss of light issues with the neighbouring properties.”

1.3 Since the meeting I have met with the occupiers of the adjacent bungalow at Ridgeways and had discussions with the agent regarding the design of the proposed extension.

2. THIS REPORT

2.1 This report is to update Members regarding the additional information they requested and the position with the application. The agent has worked with officers to try and address concerns with the design, such as through the use of painted brickwork/lighter weatherboarding. However, ultimately these changes were not considered to be an improvement from your officers’ perspectives. Therefore, no changes are being proposed to the design or finishing materials in the scheme before you today. It is the same scheme which members previously considered at the Planning Committee meeting on the 23rd June.

3. DISCUSSION

APPENDIX 1

Impact upon neighbouring properties

- 3.1 There is no identifiable harm on the amenities of St Martins Cottage, as this already has a long rear wing that projects much further rearwards than the rear wall of St Mawes.
- 3.2 I also see no issue in relation to the amenities of Ridgeways as this already sits well back from St Mawes. This neighbouring property has a kitchen and lounge/dining room at the rear that overlooks the long garden at the rear. There are two windows serving the kitchen – one on the side elevation facing the driveway and boundary fence, and the other overlooking the rear garden. The other windows on the side elevation serve a bedroom and a bathroom. I advised Members at the last meeting that the flank wall of the proposed extension to St Mawes would lie approximately 6.7m from the side elevation of Ridgeways. On this basis, I do not consider that there is a reasonable argument here to say it will result in significant loss of sunlight to this neighbouring property. Given this intervening distance, and the fact that the proposed extension will not project beyond the rear wall of Ridgeways, I am of the view that the proposal would be unlikely to have a significant impact on the residential amenities of the occupiers of Ridgeways in respect of loss of light or overshadowing.

Impact on character and appearance of conservation area

- 3.3 The application property forms part of a group of dwellings located on the south side of The Street, opposite the 'Playstool' Recreation Area, within the Borden (The Street) Conservation Area. The application property and the other three dwellings are all visible from slightly elevated views from within the 'Playstool'.
- 3.4 The recent conservation area character appraisal and management plan document (approved for adoption by the Council's Cabinet before the change over to the Committee system) references this group of dwellings as follows:

[Directly adjacent to the application property – to the west] *'...is the locally important building of St. Martin's Cottage, dating to 1777. This is a very attractive building slightly set back on its plot with low iron railings in front. The run of historic interest is then broken up by a series of late 20th century bungalows set far back on their plots with paved and concreted fronts. The low brick walls which front onto the pavement area are not in character with the more historic boundary treatments in the Conservation Area. The bungalows occupy the former site of the vicarage and still feature the Gargoyles associated with this 19th century building. The historic and architectural interest then returns with The Homestead, formerly occupied by William Barrow. It is a locally important building which is based on a 15th century Wealden Hall timber hall, subsequently clad in brick. It is offset on its plot and presents its side to the road'.*

- 3.5 The front boundary treatment to the group of four 20th century bungalows is specifically noted as a negative feature of the conservation area in the adopted character appraisal and management plan, but the bungalows themselves which have mellowed with age are considered to be more neutral in terms of their impact on the conservation area

APPENDIX 1

street scene. It is the non contextual front boundary treatments combined with relatively large areas of hardsurfacing for parking areas which are the most negative element in the street scene.

- 3.6 The bungalows can be appreciated as a designed group in the street scene, although the design is pleasant but unremarkable architecturally and a combination of minor alterations to the bungalow frontages and planting along the frontage party boundaries render it more difficult to do so. It could not reasonably be described as a strong and distinctive architectural composition as we see it today, although it is likely it was more striking when first built.
- 3.7 The front boundary wall to the easternmost bungalow (the one featuring the gargoyle) is a remnant section of the redbrick boundary enclosure to the former vicarage at the site and can clearly be seen as different in form and scale to the castellated brick wall design to the two middle, semi-detached bungalows. The front wall design to the application property has clearly been replaced and is different in design to both the aforementioned front boundaries. The application property also has a more leafy/strongly landscaped frontage and together with the existing box-form rear dormer which is readily visible from certain public vantage points, this does serve to already visually distinguish St. Mawes from the three other bungalows to some degree.
- 3.8 The proposed changes to St. Mawes would further increase the visual differences between it and the other three bungalows, and it is likely that with those changes, the currently still discernible appreciation of the 4 bungalows as a designed group would be almost, if not completely lost. This would effectively create a precedent for material alteration of the other three bungalows and that needs to be borne in mind in determining this application.
- 3.9 With a much stronger and more distinctive architectural design and overall composition, there would certainly be a case to be made that at least the frontages of the four bungalows should be retained in a broadly matching form but that is not the case. Were this so, it is considered that the adopted Character Appraisal and Management Plan would have specifically referred to such architectural quality. Instead, the Appraisal states that “the run of historic interest is broken up by a series of late 20th century bungalows”. This implies that the bungalows can be left to continue to evolve individually, with each bungalow over time taking on a more individual character as proposals for their alteration and extension are brought forward, subject to this being contextually appropriate with neighbouring buildings in this part of the street-scene. As they stand, they do not make an intrinsic contribution to the historic character and appearance of the Conservation Area that needs to be protected.
- 3.10 The proposed alterations to St. Mawes unarguably represent a significant re-modelling of its appearance, character, and overall form, but accepting that it is appropriate to allow each of the bungalows (or at least the two on either end) to evolve in a more individual manner, the key questions which need to be considered are:
- (a) Is the design still sufficiently contextually appropriate?;

APPENDIX 1

- (b) Is the design proposed of a suitably high standard, considering the detailing and materials in the elevational treatment; and
- (c) would the net change to the appearance of the dwelling preserve or enhance the character and appearance of the conservation area?

3.11 The proposed alterations will remove a large flat roofed box dormer at the rear of the bungalow which is harmful to its character and appearance. I remain of the view that the raising of the main roof being proposed here is minimal and as such in keeping with the adjoining bungalow. The design of the front dormer conforms to the SPG guidance and the existing UPVC framed windows will be replaced with potentially more finely aluminium framed glazing, which represents an improvement. The use of featheredged boarding can be seen on other properties within the village, and as such will preserve the character and appearance of the conservation area. This accords with the aim of policy DM33 that new development within a conservation area should be sensitive to the special character of the area and of a high standard design. Whilst the proposed remodelled design of the dwelling is markedly different to the current form, taking into account the unsympathetic changes that have previously taken place to the dwelling, which would be eliminated through the remodelling, I am of the view that the net effect of the changes would be no more harmful than leaving the dwelling in its current form, and that they would in reality, be likely to have a marginal enhancing effect.

4. CONCLUSION

4.1 It is a statutory requirement set out in Section 72(1) of the Planning (Listed Building and Conservation Areas Act) 1990 that in conservation areas local authorities should give 'special attention ... to the desirability of preserving or enhancing the character or appearance of that conservation area'. In the context of the net effect on the character and appearance of the changes to the conservation area - and given that no material harm would arise in relation to the residential amenity of neighbouring properties - I cannot see any reason to move away from my previous recommendation. It is considered that, whilst not necessarily impossible, it would likely be very difficult to defend refusal of this proposal in the event of an appeal and, accordingly, on balance, I recommend that the application is granted planning permission.

5. 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.

Reason: 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 approved drawings, including in accordance with the specification of materials to be used in the construction of the external surfaces of the extension set out thereon:

APPENDIX 1

01.22.02; 01.22.05B; 01.22.06C; 01.22.07 and 01.22.09C.

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

- (3) The proposed roof-lights to bedroom 1 and ensuite on the gable roof of the rear extension hereby permitted shall have a cill height of not less than 1.7m above finished inside floor level and shall subsequently be maintained as such.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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 1



APPENDIX 2

2.4 REFERENCE NO - 22/501315/FULL		
APPLICATION PROPOSAL Raising of roof height and insertion of dormer window and roof lights together with two storey front and rear extension as amended by drawing No. 01.22.09C.		
ADDRESS St Mawes The Street Borden Kent ME9 8JN		
RECOMMENDATION Grant subject to conditions		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Borden And Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Mr Scott Hawkins AGENT Jane Elizabeth Architects
DECISION DUE DATE 26/05/22	PUBLICITY EXPIRY DATE 05/05/22	

Planning History

There is no recorded planning history for St Mawes, but the bungalow has been extended at the rear with a large flat roofed box dormer.

1. DESCRIPTION OF SITE

- 1.1 St Mawes is a brick built detached bungalow with a single storey detached garage set behind the property. The bungalow is located within the built-up area boundary of Borden and within the village conservation area. The property is situated on the south side of The Street alongside a row of four bungalows that are set well back from the road.
- 1.2 The adjacent bungalow to the east known as Ridgeways has a single storey detached garage to the rear which sits on the common boundary and a generously sized rear garden that wraps around the garden boundary of St Mawes.
- 1.3 However, the adjacent property to the west, known as St Martins Cottage, is a traditionally designed two storey house of some age; one that makes an important contribution to the character of the conservation area as it is prominently sited much further forward and closer to the highway. The principal flank elevation of St Martins Cottage sits in front of the façade of St Mawes, but this property also has a long single storey building at the rear that sits on the common boundary with St Mawes.

APPENDIX 2**2. PROPOSAL**

- 2.1 This application seeks planning permission for increasing the height of the existing front bedroom wing to create a new entrance hall and stairway (with a fully glazed front gable), and to construct a rear extension with two floors to provide additional living space at ground floor, and a third bedroom within the roofspace, again with full height glazing to the new gable end.
- 2.2 The proposals also involve raising the main ridgeline of the bungalow by 0.7m and include a new pitched roof dormer window to the front, and four rooflights to the rear. The extension to the rear would have a ridgeline at the same height as the new main roof and would project 4m beyond the rear wall of the bungalow. This extension would have a pitched roof with two high level side facing rooflights serving the ensuite and master bedroom. The other two rooflights at the rear will be positioned at eye level overlooking the rear garden and will serve bedroom 2 and 3.
- 2.3 The external walls of the bungalow will be clad in black horizontal featheredged timber weatherboarding above a red brick plinth and have a brown tiled roof. The existing bungalow has UPVC windows and doors, although the front door is wooden. The proposal is to install grey slimline aluminium windows, an oak door, and aluminium bi-folding doors at the rear. The new gable ends will be oak framed.
- 2.4 The new resin driveway to the front (looks similar to pea shingle) will provide turning space and off-road parking for at least three cars. There will be a small, grassed area in front of the new gable end. The revised block plan shows a privet hedge will be planted behind the new 0.9m high brick boundary wall together with two Laurel trees.
- 2.5 The application is supported by a Design, Access and Heritage Statement which explains the proposal will provide an additional bedroom and larger kitchen for the occupants, and that the proposed materials will be used to improve the appearance of the property. They have included photographs of other properties within the village that have glazed gable ends and have used similar external materials - red brick, black weatherboarding, and a brown tiled roof.
- 2.6 The applicant sought pre-application advice prior to submitting the application and was advised that the proposal was likely to be acceptable, providing the walls are clad in timber weatherboarding rather than a composite, that the front dormer is designed with a two-pane window and the rooflight serving bedroom 2 is positioned at eye level. This application has addressed all these issues.

3. PLANNING CONSTRAINTS

- 3.1 Conservation Area The Street, Borden

4. POLICY AND CONSIDERATIONS

- 4.1 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies CP4 Requiring good design; CP8 Conserving and enhancing the historic environment;

APPENDIX 2

DM7 Vehicle parking; DM14 General development criteria; DM16 Alterations and extensions; DM33 Development affecting a conservation area.

Policy DM33 states:

Development within, affecting the setting of, or views into and out of a conservation area, will preserve or enhance all features that contribute positively to the area's special character or appearance.

- 4.2 Supplementary Planning Guidance (SPG): "Designing an Extension – a Guide for Householders" provides guidance on the design and scale of extensions. With regards to dormer windows, the guidance states that

5.5 Dormers should be in proportion with the roof and only as large as necessary to allow light into the roof space. As a guide the dormer should be no deeper than half the depth of the roof slope and have square proportions or a vertical emphasis. They should normally have pitched roofs with tiles to match the main roof. Suitably designed dormer windows are preferred to rooflights in Conservation Areas and the Area of Outstanding Natural Beauty.

- 4.3 With regards to the scale of rear extensions the SPG states:

5.7 For single storey rear extensions close to your neighbour's common boundary, the Borough Council considers that a maximum projection of 3.0m will be allowed. A first floor extension should not exceed 1.8m (with two storey rear extensions the potential impact can be even greater). Leaving a gap to the boundary with your neighbour may offset this requirement slightly depending on the distance allowed.

5.9 On well spaced detached properties or where an extension is to be built away from the boundary a larger extension may be acceptable.

- 4.4 With regards to windows, the guidance states:

6.0 Side windows should be avoided to reduce overlooking and mutual loss of privacy, although high level windows (with an internal sill height of at least 1.65m) may be acceptable.

- 4.5 Supplementary Planning Guidance (SPG): "Conservation Areas" states that

*Any new development should preserve or enhance the special character or appearance of a conservation area, whilst allowing the area to remain alive and prosperous. It will be important to see that every new building is designed not as a separate entity, but as part of a larger whole which has a well established character of its own. **A high standard of development therefore will be required for all buildings in conservation areas and for extensions to existing buildings.***

- 4.6 Supplementary Planning Guidance (SPG): "Parking Standards" (May 2020) recommends 3+ parking spaces for a three-bedroom house in a rural location.

APPENDIX 2

5. LOCAL REPRESENTATIONS

- 5.1 One objection has been received raising concerns regarding loss of light to rooms with windows along its side elevation, as well as to its patio area. They also are concerned that the proposed black timber cladding will worsen this issue and result in an offensive outlook from their property. Also, they do not believe the alterations are in keeping with neighbouring bungalows which have historic value in The Street.

6. CONSULTATIONS

- 6.1 Borden Parish Council objects, commenting as follows:

“... it would be out of character in the row it is within and with the substantial use of glass and minimal use of traditional materials. It is also in conservation area and would overlook the neighbours property.”

- 6.2 The Council's Tree Consultant recommended that a one metre bed of shrubs and trees are planted inside the front boundary wall, or a hedge with at least one tree.

7. BACKGROUND PAPERS AND PLANS

- 7.1 Application papers and drawings referring to application reference 22/501315/FULL.

8. APPRAISAL

- 8.1 I consider the key issues in this case are its design and the impact on the character and appearance of the conservation area, and the impact upon residential amenities of neighbours.

- 8.2 The Character Appraisal and Management Plan for The Street (adopted April 2021) describes the area as:

The next property is the locally important building of St Martin's Cottage, dating back to 1777. This is a very attractive building slightly set back on its plot with low iron railings in front.

The run of historic interest is then broken up by a series of late 20th century bungalows set far back on their plots with paved and concreted fronts. The low brick walls which front onto the pavement area are not in character with the more historic boundary treatments in the Conservation area. The bungalows occupy the former site of the Vicarage and still feature the Gargoyles associated with this 19th century building... although this quirk is somewhat spoiled by the insensitive siting of a CCTV camera right next to one.

And identifies the key negative characteristics as:

- *Low brick retaining walls at the frontage of modern 20th century properties not in character in size and material and detract from the appearance of the street scene where they occur on The Street and School Lane.*

APPENDIX 2

- *Areas of hard standing and parking in the front of the setback 20th century buildings on the south side of The Street. This creates a discordant note to the street scene.*
- 8.3 I believe the proposed scheme is well-considered and takes on board the advice given at pre-application stage. In particular, the enclosed frontage has since been significantly modified to protect the character of the conservation area street scene. I consider the new brickwork wall with dog tooth dentils and planting of a new hedgerow would enhance the character and appearance of the conservation area.
- 8.4 I consider the raising of the main roof being proposed here to be minimal and in keeping with the adjoining bungalow. The alterations will still leave a single storey appearance, so this property will still sit well within the street scene. The design of the front dormer conforms to the SPG guidance, and the use of featheredged boarding is considered appropriate for a property located within a conservation area. Furthermore, the aluminium framed glazing to replace the existing UPVC framed windows to the property will be an improvement. This accords with the aim of policy DM33 that new development within a conservation area should be sensitive to the special character of the area and of a high standard of design.
- 8.5 I have carefully considered the neighbours' concerns about the rear extension blocking out light to their bungalow and patio area. The proposed two storey extension would project four metres to the rear at both ground and first floor levels. The Council's SPG sets out local guidance that a larger rear extension may be allowed on detached properties or where an extension is to be built away from the boundary. In this case, the proposed two storey rear extension will be situated approx. 4.5m away from the common boundary with Ridgeways, and moreover, the living accommodation at Ridgeways is set away from the boundary, so I do not consider it will adversely impact on the living conditions of this neighbouring property. Neither do I see an issue in relation to the amenities of St Martins Cottage, as this already has a long rear wing that projects much further rearwards than the rear wall of St Mawes. I consider the proposed two storey rear extension to be appropriately designed and of an acceptable scale in relation to both adjacent properties.
- 8.6 The new bedroom at first floor will have glazed doors within the gable end overlooking the rear garden but I do not believe this will result in any harmful overlooking as they face directly down the garden, not towards the rear gardens of the adjacent properties. The rooflights within the gable end will serve the ensuite and master bedroom. I recommend imposing a condition which require these rooflights to open only 1.7m above the finished floor levels of the rooms they serve and maintained as such to prevent any loss of privacy to the properties either side.
- 8.7 The rooflight serving bedroom 2 will be positioned at eye level which will provide some outlook to this room. As this rooflight will be positioned on the rear facing roofslope, I do not believe there will be any overlooking issues here if it is set below eye level.

APPENDIX 2

9. CONCLUSION

- 9.1 I consider that the proposal is acceptable in terms of its design and impact upon the character and appearance of the conservation area, and upon the residential amenities of neighbouring properties. I therefore recommend that planning permission be granted.

10. RECOMMENDATION

GRANT Subject to the following conditions:

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.

Reason: 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 approved drawings, including in accordance with the specification of materials to be used in the construction of the external surfaces of the extension set out thereon:

01.22.02; 01.22.05B; 01.22.06C; 01.22.07 and 01.22.09C.

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

- (3) The proposed rooflights to bedroom 1 and ensuite on the gable roof of the rear extension hereby permitted shall have a cill height of not less than 1.7m above finished inside floor level and shall subsequently be maintained as such.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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.

APPENDIX 2

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



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DEF ITEM 2 REFERENCE NO - 21/506027/FULL		
APPLICATION PROPOSAL		
Section 73 - Application for removal of condition 8 (noise levels) pursuant to application 21/503772/FULL for - Section 73 - Application for Variation of condition 2 (permanent change of use), 4 (to allow external lighting) and 7 (to allow music to cease Sun-Thu at 10 PM Fri-Sat at 11 PM) pursuant to application 18/501494/FULL for - Change of Use of the space to re-instate it's previous early historical use for the local community and as a centre for the local cultural arts and to provide food and drink.		
ADDRESS St Saviours Church Whitstable Road Faversham Kent ME13 8BD		
RECOMMENDATION Please refer to full committee report		
REASON FOR REFERRAL TO COMMITTEE		
The application was originally deferred by Planning Committee on 13 th January 2022		
WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mrs Romana Bellinger AGENT
DECISION DUE DATE 04/01/22	PUBLICITY EXPIRY DATE 15/12/21	CASE OFFICER Alice Reeves

Planning History

21/503772/FULL

Section 73 - Application for Variation of Condition 2 (permanent change of use), 4 (to allow external lighting) and 7 (to allow music to cease Sun-Thu at 10 PM Fri-Sat at 11 PM) pursuant to application 18/501494/FULL for - Change of Use of the space to re-instate it's previous early historical use for the local community and as a centre for the local cultural arts and to provide food and drink.

Approved Decision Date: 15.10.2021

18/501494/FULL

Change of Use of the space to re-instate it's previous early historical use for the local community and as a centre for the local cultural arts and to provide food and drink.

Approved Decision Date: 20.07.2018

18/502720/LBC

Listed Building Consent for proposed alterations to the layout of the joiners partitioned storerooms in the hall for use as a kitchen area, toilet and disabled toilet. To include drainage and damp repairs, underfloor insulation, erection of interior CCTV and reinstating dwarf wall with picket fencing. Insert guttering where missing.

Approved Decision Date: 10.10.2018

14/502638/FULL

1. Retrospective permission sought for change of use from a designated church to a live-work artist/artisan studio, with the following developments:

- the original kitchenette replaced by a shower room
- the installation of a kitchen
- storage platform becomes a sleeping platform, accessed by the addition of an internal metal spiral staircase.

2. Prospective permission sought for replacing current Canadian pattern galvanised roof with a 'Standing Seam Zinc' roof.

Approved Decision Date: 31.03.2015

14/502639/LBC

1. Retrospective permission sought for change of use from a designated church to a live-work artist/artisan studio, with the following developments:

- the original kitchenette replaced by a shower room
- the installation of a kitchen
- storage platform becomes a sleeping platform, accessed by the addition of an internal metal spiral staircase.

2. Prospective permission sought for replacing current Canadian pattern galvanised roof with a 'Standing Seam Zinc' roof.

Approved Decision Date: 31.03.2015

1. INTRODUCTION

1.1 This application was previously reported to the Planning Committee on the 13th January 2022, with a recommendation for approval. However, at that meeting Members resolved the following:

‘That application 21/506027/FULL be deferred until further sound recordings were taken at the venue on both amplified and acoustic music, with applicable conditions to be implemented and clarity be sought on whether the venue was still a café or solely a music venue’.

1.2 The original Committee report is attached to this report as Appendix B.

2. CONSULTATIONS

2.1 The Swale Borough Councils’ Environmental Health Report, including noise readings and suggested condition, is attached to this report as Appendix A.

3. The APPRAISAL

3.1 The application was presented to Planning Committee on 13th January 2022; however, the Item was deferred by Members as concerns were raised in relation to the potential noise issues affecting nearby residents. Members also asked Officer’s to clarify with the applicants whether the venue was still being used as a community café, as well as an events venue.

3.2 With regards to the use of the building the applicants provided the following response:

“Can you please clarify to Council Members that we hold a whole host of events, can you also make Members aware that the cafe does not make the necessary funds to support the costs of maintaining this large grade 2 listed building and that we receive the majority of our revenue by hosting the below events in our arts venue.

Please see below, examples of events held at The Hot Tin set out in the Heritage Statement, application ref 21/503772/FULL:

- *Employment of full and part time staff from within the local community. Employing staff from government backed apprenticeship and kickstarter schemes.*
- *Showcase local, national and international artists for the local and wider community.*
- *We connect with local peers and peer groups, art venues, associations, societies and collectives.*
- *Bridging communities and educational workshops*
- *Exhibitions*
- *Films*
- *Hire for cultural events*
- *Performing Arts*
- *Concerts*
- *Craft fairs*
- *Launch parties*
- *Open House run by The Faversham Society*
- *Cafe/bar for the community to drop in and use and to promote local coffee roasters, local food produce, local micro breweries ie ales, cider, wines.*

Live music is one of the many types of events we host at The Hot Tin. We have sort advice from our Planning Consultant who has confirmed that as live music performances happen periodically (3-4 per month), the use class we've been granted is in keeping within its permitted use”.

- 3.3 The noise measurements and recommendations from the Environmental Protection Team Leader can be found in Appendix A. Officers have discussed the findings and the recommendations and are of the opinion that Option 2 with the following condition would be more suitable in this instance and would provide the necessary noise mitigation:

‘Prior to the continued use of the venue a noise management plan shall be submitted for assessment and approval by the local planning authority. The management plan shall include but not be limited to: The number of events per calendar year, the time period between each event, the type of event that is suitable for the venue, the termination time of any event, how sound levels will be assessed during any event, how this will be recorded, the actions taken if sound levels are found to be too high, what the threshold for taking action will be, the provision of information on the events program to residents, provision of contact details for residents in case of complaint, how complaints will be responded to and actioned as necessary, recording of complaints, provision of records to the council on request, triggers for update of the management plan’.

4. CONCLUSION

- 4.1 In view of the above, it remains my opinion that the proposal is acceptable. I therefore recommend that the application be granted subject to conditions outlined in the original report and the inclusion of condition (8) in accordance with the Environmental Health report.

5. RECOMMENDATION

GRANT Subject to the following conditions/ REFUSE for the following reasons:

CONDITIONS to include

- (1) Prior to the continued use of the venue, details of any mechanical ventilation system that are to be installed shall be submitted to and approved by the Local Planning Authority and upon approval shall be installed, maintained, and operated in a manner that prevents the transmission of odours, fumes, noise and vibration to neighbouring premises.

Reason: In the interests of residential amenity

- (2) No floodlighting, security lighting or other external lighting shall be installed or operated at the site without the prior written consent of the Local Planning Authority other than a traditional lantern over the main entrance door.

Reason: In the interests of residential amenity.

- (3) Prior to the installation of the lantern referred to in condition (2) above, manufacturers details of the proposed lantern shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

- (4) The approved lantern hereby approved shall not be illuminated except during the hours that the premises to which it relates is open for business.

Reason: In the interests of residential amenity.

- (5) The premises shall be used only for the purpose of a community café and arts centre and for no other purpose, including any other purpose within Classes E, F.1 or F.2 of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

- (6) The use of the premises hereby permitted shall be restricted to the hours of 8 am to 11pm, seven days a week.

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

- (7) No recorded or live music or singing shall be permitted on the premises after 10pm

on any day.

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

- (8) Prior to the continued use of the venue, a noise management plan shall be submitted for assessment and approval by the local planning authority. The management plan shall include but not be limited to: The number of events per calendar year, the time period between each event, the type of event that is suitable for the venue, the termination time of any event, how sound levels will be assessed during any event, how this will be recorded, the actions taken if sound levels are found to be too high, what the threshold for taking action will be, the provision of information on the events program to residents, provision of contact details for residents in case of complaint, how complaints will be responded to and actioned as necessary, recording of complaints, provision of records to the council on request, triggers for update of the management plan.

Reason: In the interests of residential amenity.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

Hot Tin Planning Comment revised following sound monitoring exercise on 17 July 2020

Introduction

It is my understanding that at the initial planning committee on 14th October 2021 the EP team requested a technical noise condition requiring that any events at the venue not exceed a background level of 37dB(A) as measured. However, at that meeting an alternative condition was requested which set a finishing time on any event of 22.00 hours and the initial 37dB(A) condition was left on in error. At a subsequent committee meeting on 13th January 2022 to remove the condition, the nature of an alternative suitable condition was discussed and could not be established.

The Environmental Protection Team has been asked to provide revised planning comments and recommend an appropriate condition to mitigate noise impact on residents in the immediate locality. This was to be completed following the monitoring of a live event at the venue.

The monitoring was completed by officers from the Mid Kent Environmental Protection Team and the Planning case officer on the 17 July 2020. The event was chosen as it appeared from the advertising to represent the likely worst-case from the events advertised. The NikNak event is described as using film and audio effect to tell the presenter's story <https://www.ticketweb.uk/event/niknak-sankofa-the-hot-tin-tickets/12042525>. The visit was unannounced with only the relevant case officers and managers aware that it was planned.

The monitoring undertaken comprised the taking of sound level readings and making subjective observations by officers, it was completed in public areas and in the garden and kitchen of 1 Whitstable Road.

The applicant has recently also submitted a report by an acoustic consultant specifically addressing the background level presented by the EP team at the first planning hearing.

The area and the building

The area is predominantly residential with a B road the Whitstable Road running passed it. The building is a historic Victorian flat pack church made of metal sheeting and lined with wood. It has very little in the way of acoustic insulation and is a listed building, meaning that sound insulation works would not be permitted to be installed.

Consultant report submitted by applicant

The report submitted does not seek to assess the impact of noise from the venue on nearby residential premises. It simply seeks to establish a different background level for use as a benchmark. The report claims that the 37dB(A) presented by the EP team is too low and is based on a single 5min measurement in the rear car park of the premises. It is claimed that the location is in sound shadow of the building itself, is not near the nearest receptor and is therefore not representative. The consultant has it seems assisted the applicant in making their own measurements perhaps by lending them equipment but not supervising them using it and then analysing the results. This done at the boundary of the nearest noise sensitive premise at 1 Whitstable Road gives a proposed background of 43dB(A).

I am not able to query the claims about the EP team measurement as the officer no longer works at the council and I have seen no details as to exactly where it was taken.

Suitability of the condition based on background sound level

APPENDIX A

The condition originally requested regardless of the background level used is not suitable in this case as it is both too technical and conversely not technical enough. It is too technical in as much as neither the applicant, the residents, nor the planning authority has the technical ability to assess if the venue is compliant with it unless the venue employs the services of a suitably qualified and competent consultant to monitor each event. As we have seen from the applicant's consultant report the level of background noise can also be subject to variation and it would be necessary to establish an event specific background for each event. This would be very costly for the venue.

The condition is also not technical enough as it relies on the A weighted sound level only. This has the effect of artificially reducing sound levels at both high and low frequencies in an attempt to mimic the response of the human ear. However, it is low frequency noise that is very often the main problem in music events, and this was the main observation of the officers witnessing the recent event. In order to be successful a technical condition would need to be worded to ensure that levels were set not just for overall sound levels but for individual third octave bands.

Monitoring exercise 17 July

Several locations were used for monitoring around the venue corresponding with residential premises, including access to 1 Whitstable Road the nearest noise sensitive receptor, as identified in the applicant's own report. The results are divided into subjective and numerical observations. For the purposes of this report I have summarised the officers' notes which are largely handwritten in the field but which could be made available if necessary.

Subjective

Music and vocals were generally muffled and indistinct and in isolation may have been acceptable. This was commented on by residents of 1 Whitstable Road who advised that they were not as loud as usual. The element of most concern was the bass produced by the performance. This is described by the officers as causing the walls and windows of the venue to shake and to sound as if an industrial process was taking place inside the venue. Officers also walked away from the venue in each direction to assess how far the sound was audible to what they considered to be an unacceptable level. This was near 25 Cypress Road 113m from the venue with direct line of sight, 7 Whitstable Road 36m no direct line of sight and Park View Lodge 29m from the venue no direct line of sight.

The bass was strongest at the small outcropping section facing 1 Whitstable Road, where it is believed the speakers were located. The bass could be felt inside the garden and kitchen with doors and windows closed.

Measured sound levels

For the purposes of this report I am providing the measured levels taken for background and in the garden of the nearest noise sensitive premises as these are the most directly relevant. Full results can be made available if necessary.

Background sound levels taken before the event started opposite 3 Cypress Road in approximately the same position as the applicant were L90 41.5dB(A). This compares with the applicants submitted level of 43 dB(A). Being within 3dB is subjectively not noticeable. However the measurement was short in duration and so I have used the applicants background level (L90) of 43dBA.

The table below shows comparative sound levels in key low frequency elements as well as the overall sound level.

APPENDIX A

Location	Time (hrs)	LAeq dB(A)	50Hz dB	63Hz dB	100Hz dB	Comment
Opposite 3 Cypress	19.22	56	57	60	51	Taken for background but LAeq not used in favour of applicants own provided background. Used only for comparison with low frequency sound levels.
Garden 1 Whitstable Road	20.31	61	83	79	74	18dB over background in Leq also highly significant increase in low frequency sound
Kitchen 1 Whitstable Road	21.24	43	60	44	39	Equal to background low frequency also comparable. Officer comment that could feel it in the room.
Garden 1 Whitstable Road	21.29	56	83	66	62	11dB above background again highly significant increase in low frequency sound
Garden 1 Whitstable Road	21.46	56	83	72	64	11dB above background again highly significant increase in low frequency sound

Table showing comparative sound levels NB sound levels rounded to nearest whole number

APPENDIX A

Discussion

The table above shows that the overall sound levels produced within the nearest noise sensitive receptor were increased by as much as 18dB and in all measurements by more than 10dB. To add context, an increase of 10dB roughly equates to a doubling of loudness. The low frequency sound has increased by very significant levels which is highly disturbing and penetrating. This frequency is able to pass through closed windows and walls with little loss of energy. The numerical results should be used to, and do, support the officers' subjective observations which note the high levels of bass transmitted into the resident's garden and home as well as travelling considerable distance from the venue as described above.

The high levels of sound break out are consistent with the type of construction of the venue which is not sufficient to contain loud amplified music particularly bass elements. It is therefore highly unlikely that any event can be held at the venue that will not be audible outside the building and will consequently impact on residents nearest to it.

The venue itself is listed and not able to be retrofitted with significant acoustic mitigation. I therefore consider that the imposition of a technical sound level condition would in addition to the practical difficulties in self-monitoring and enforcement outlined above, result in the venue not being able to operate at sufficient volume to be viable.

The venue has been considered and may seek to operate in the application process in the same way as an events venue which has resulted in the proposals for potentially large numbers of events and attracted the proposed technical conditions that would be appropriate for that. It may be more appropriate to consider the applicant's venue more like a village hall which has a relatively small number of events that do impact local residents but are limited in number and duration by way of mitigation.

Options

1. Continue to consider the venue as an events venue with large numbers of events. In which case a suitable worded condition would be as follows, however, it is doubtful if once set the venue will be able to operate effectively.

Prior to the first use of the venue a sound limiter shall be fitted to the sound system which is set by a suitably qualified and competent consultant in liaison with the local planning authority, to ensure that overall background sound levels and each third octave band sound level do not exceed the background sound levels. The background sound levels for each third octave shall be established by the consultant and agreed with the local planning authority. Following installation all musical or other entertainment shall operate through the in-house system and noise limiter. The limiter and settings shall be maintained and retained to the satisfaction of the local planning authority.

2. Consider the use of the venue as a village hall with a small number of events. This will require the venue to limit the scope of their ambitions and residents to accept that events will have an impact. In this scenario a suitable condition would be as follows.

Prior to the first use of the venue a noise management plan shall be submitted for assessment and approval by the local planning authority. The management shall include but not be limited to: The number of events per calendar year, the time period between each event, the type of event that is suitable for the venue, the termination time of any event, how sound levels will be assessed during

APPENDIX A

any event, how this will be recorded, the actions taken if sound levels are found to be too high, what the threshold for taking action will be, the provision of information on the events program to residents, provision of contact details for residents in case of complaint, how complaints will be responded to and actioned as necessary, recording of complaints, provision of records to the council on request, triggers for update of the management plan.

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APPENDIX B

2.5 REFERENCE NO - 21/506027/FULL		
APPLICATION PROPOSAL Section 73 - Application for removal of condition 8 (noise levels) pursuant to application 21/503772/FULL for - Section 73 - Application for Variation of condition 2 (permanent change of use), 4 (to allow external lighting) and 7 (to allow music to cease Sun-Thu at 10 PM Fri-Sat at 11 PM) pursuant to application 18/501494/FULL for - Change of Use of the space to re-instate it's previous early historical use for the local community and as a centre for the local cultural arts and to provide food and drink.		
ADDRESS St Saviours Church Whitstable Road Faversham Kent ME13 8BD		
RECOMMENDATION - Grant		
REASON FOR REFERRAL TO COMMITTEE The Head of Planning considers that this application raises sufficiently unusual or difficult issues which warrant Member determination		
WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mrs Romana Bellinger AGENT
DECISION DUE DATE 04/01/22	PUBLICITY EXPIRY DATE 15/12/21	

Planning History**21/503772/FULL**

Section 73 - Application for Variation of condition 2 (permanent change of use), 4 (to allow external lighting) and 7 (to allow music to cease Sun-Thu at 10 PM Fri-Sat at 11 PM) pursuant to application 18/501494/FULL for - Change of Use of the space to re-instate it's previous early historical use for the local community and as a centre for the local cultural arts and to provide food and drink.

Approved Decision Date: 15.10.2021

18/502720/LBC

Listed Building Consent for proposed alterations to the layout of the joiners partitioned storerooms in the hall for use as a kitchen area, toilet and disabled toilet. To include drainage and damp repairs, underfloor insulation, erection of interior CCTV and reinstating dwarf wall with picket fencing. Insert guttering where missing.

Approved Decision Date: 10.10.2018

18/501494/FULL

Change of Use of the space to re-instate it's previous early historical use for the local community and as a centre for the local cultural arts and to provide food and drink.

Approved Decision Date: 20.07.2018

1. DESCRIPTION OF SITE

- 1.1 The property is a late C19 'tin' church, a type of building now increasingly rare to find; as such, the building is Grade II listed. The building is situated on Whitstable Road,

APPENDIX B

opposite the Faversham Recreation Ground, within the established built-up area boundary and within the Faversham conservation area. The immediate surroundings comprise rows of terraced housing dating to the turn of the 20th Century to the northeast, later 20th century semi-detached housing to the north and an area of recently completed development to the west. The area south of the church comprises an open recreation ground, with tree-lined paths. There is a zebra crossing a short distance to the east of the site along Whitstable Road.

- 1.2 The building consists of the church itself, and an extension to the rear, also in 'tin' and dating to the 1920s. The rear extension is in residential use, with the main body of the church having had a temporary three year permission for use as a centre for the local cultural arts and to provide food and drink.
- 1.3 The building was for many years used as a joinery workshop, and after which it had been used as an artist's studio with residential use at the rear.
- 1.4 The current applicants sought planning permission in 2018 for 'Change of Use of the space to re-instate it's previous early historical use for the local community and as a centre for the local cultural arts and to provide food and drink' (application 18/501494/FULL). The application was approved on a three year temporary basis with 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.

Reason: 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 use hereby permitted shall cease on or before 24th July 2021

Reason: In order that the position may be reviewed at the end of the period stated.

(3) Details of any mechanical ventilation system that is to be installed shall be submitted to and approved by the Local Planning Authority and upon approval shall be installed, maintained and operated in a manner that prevents the transmission of odours, fumes, noise and vibration to neighbouring premises.

Reason: In the interests of residential amenity.

(4) No floodlighting, security lighting or other external lighting shall be installed or operated at the site.

Reason: In the interests of visual amenity and the residential amenities of occupiers of nearby dwellings.

(5) The premises shall be used for the purpose of a community café and arts centre and for no other purpose, including any other purpose within the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

APPENDIX B

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

(6) The use of the premises hereby permitted shall be restricted to the hours of 8 am to 11pm, seven days a week.

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

(7) No recorded or live music or singing shall be permitted on the premises after 10pm.

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

- 1.5 In October 2021 Members considered application 21/503772/FULL to renew the planning permission with the following changes:

Section 73 - Application for Variation of condition 2 (permanent change of use), 4 (to allow external lighting) and 7 (to allow music to cease Sun-Thu at 10 PM Fri-Sat at 11 PM) pursuant to application 18/501494/FULL for - Change of Use of the space to re-instate it's previous early historical use for the local community and as a centre for the local cultural arts and to provide food and drink.

- 1.6 The renewal application was recommended for approval with the following suggested conditions:

(1) Details of any mechanical ventilation system that is to be installed shall be submitted to and approved by the Local Planning Authority and upon approval shall be installed, maintained and operated in a manner that prevents transmission of odours, fumes, noise and vibration to neighbouring premises.

Reason: In the interests of residential amenity.

(2) No floodlighting, security lighting or other external lighting shall be installed or operated at the site without the prior written consent of the Local Planning Authority other than a traditional lantern over the main entrance door.

Reason: In the interests of residential amenity.

(3) Prior to the installation of the lantern referred to in condition (2) above, manufacturers details of the proposed lantern shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

(4) The lantern hereby approved shall not be illuminated except during the hours that the premises to which it relates is open for business.

Reason: In the interests of residential amenity.

(5) The premises shall be used only for the purposes of a community café and arts centre and for no other purpose, including any other purpose within Classes E, F/1

APPENDIX B

or F.2 of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

(6) The use of the premises hereby permitted shall be restricted to the hours of 8am to 11pm, seven days a week.

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

(7) No recorded, or live music or singing shall be permitted on the premises after 10pm on any Sunday to Thursday and after 11pm on any Friday and Saturday.

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

1.7 After consultation with the Environmental Health Manager (EHM) who had taken noise readings at the site after the drafting of the report, I recommended at the meeting that a further condition (8) be added to address late night noise nuisance in this largely residential area, given the poor insulation qualities of the building concerned. This condition is as set out below. I also indicated to Members that this condition could in fact replace condition (7) as it brought in an earlier noise limit making the 10pm limit on activities in condition (7) largely redundant, and giving added flexibility to the applicants about what activities could be carried on beyond 9pm provided they did not result in unacceptable noise nuisance.

(8) Noise from recorded music, live music, singing and amplified voice emanating from the premises shall not exceed the pre-existing background noise level of 37 dB LA90 (5mins) after 21:00 hours on any day at any point on the site boundary as shown edged red on the plan submitted with planning application 18/501494/FULL.

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

1.8 As Members discussed the application Cllr Winkless suggested that condition (7) was amended such that no recorded music, live music or singing is permitted past 10pm on any day. Cllr Martin then queried whether this amendment to condition (7) was instead of the inclusion of condition (8), which Cllr Winkless then confirmed. However, there was a misunderstanding on my part and, whilst condition (7) was amended as per Cllr Winkless's motion, condition (8) was still included on the subsequent approval in error. Therefore, the **approved** conditions for the permanent continuation of the approved use contained condition (8) and were as follows:

(1) Details of any mechanical ventilation system that is to be installed shall be submitted to and approved by the Local Planning Authority and upon approval shall be installed, maintained and operated in a manner that prevents transmission of odours, fumes, noise and vibration to neighbouring premises.

Reason: In the interests of residential amenity.

APPENDIX B

(2) No floodlighting, security lighting or other external lighting shall be installed or operated at the site without the prior written consent of the Local Planning Authority other than a traditional lantern over the main entrance door.

Reason: In the interests of residential amenity.

(3) Prior to the installation of the lantern referred to in condition (2) above, manufacturers details of the proposed lantern shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

(4) The lantern hereby approved shall not be illuminated except during the hours that the premises to which it relates is open for business.

Reason: In the interests of residential amenity.

(5) The premises shall be used only for the purposes of a community café and arts centre and for no other purpose, including any other purpose within Classes E, F/1 or F.2 of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

(6) The use of the premises hereby permitted shall be restricted to the hours of 8am to 11pm, seven days a week.

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

(7) No recorded, or live music or singing shall be permitted on the premises after 10pm on any Sunday to Thursday and after 10pm on any Friday and Saturday.

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

(8) Noise from recorded music, live music, singing and amplified voice emanating from the premises shall not exceed the pre-existing background noise level of 37 dB LA90 (5mins) after 21:00 hours on any day at any point on the site boundary as shown edged red on the plan submitted with planning application 18/501494/FULL.

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

2. PROPOSAL

2.1 The current application seeks to continue the approved use without compliance with condition (8) as this was included in the permanent planning permission in error, after Members resolved not to accept the recommendation of the Environmental Health Manager to impose that condition. In other words, the applicant is asking to continue the

APPENDIX B

approved use only on the basis of conditions (1) to (7) above, as also set out at the foot of this report.

- 2.2 The applicant has not applied to vary or remove any of the other conditions that were included on the most recent decision notice.
- 2.3 Given the error in imposing condition (8) I have made it clear to the applicant that the Council will not take any enforcement action to secure compliance with condition (8) until this application is determined.

3. PLANNING CONSTRAINTS

Potential Archaeological Importance

Conservation Area Faversham

Environment Agency Flood Zone 2

Environment Agency Flood Zone 3 136741

Listed Buildings MBC and SBC Ref Number: 1107/SW
Description: G II ST SAVIOURS CHURCH, WHITSTABLE ROAD, FAVERSHAM,
ME13 8P

4. POLICY AND CONSIDERATIONS

- 4.1 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies:

CP1 (Building a strong economy)
CP6 (Community facilities to meet local needs)
CP8 (The historic environment)
DM1 (Maintaining and enhancing the viability of town centres and other areas)
DM14 (General development criteria)
DM32 (Listed Buildings)
DM33 (Conservation areas)

- 4.2 National Planning Policy Guidance (NPPG) contains the following advice on noise:

Can noise override other planning concerns?

It can, where justified, although it is important to look at noise in the context of the wider characteristics of a development proposal, its likely users and its surroundings, as these can have an important effect on whether noise is likely to pose a concern.

What are the observed effect levels?

Significant observed adverse effect level: This is the level of noise exposure above which significant adverse effects on health and quality of life occur.

APPENDIX B

Lowest observed adverse effect level: this is the level of noise exposure above which adverse effects on health and quality of life can be detected.

No observed effect level: this is the level of noise exposure below which no effect at all on health or quality of life can be detected.

How can it be established whether noise is likely to be a concern?

At the lowest extreme, when noise is not perceived to be present, there is by definition no effect. As the noise exposure increases, it will cross the 'no observed effect' level. However, the noise has no adverse effect so long as the exposure does not cause any change in behaviour, attitude or other physiological responses of those affected by it. The noise may slightly affect the acoustic character of an area but not to the extent there is a change in quality of life. If the noise exposure is at this level no specific measures are required to manage the acoustic environment.

As the exposure increases further, it crosses the 'lowest observed adverse effect' level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).

Increasing noise exposure will at some point cause the 'significant observed adverse effect' level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is predicted to be above this level the planning process should be used to avoid this effect occurring, for example through the choice of sites at the plan-making stage, or by use of appropriate mitigation such as by altering the design and layout. While such decisions must be made taking account of the economic and social benefit of the activity causing or affected by the noise, it is undesirable for such exposure to be caused.

At the highest extreme, noise exposure would cause extensive and sustained adverse changes in behaviour and / or health without an ability to mitigate the effect of the noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be avoided.

5. LOCAL REPRESENTATIONS

5.1 Eleven letters of support from ten separate addresses have been received and can be summarised as follows:

- The owners are scrupulous about security, noise levels and the behaviours of concert attendees
- Unique arts and cultural venue with a great café
- Owners have been diligent in their approach to the concerns of their neighbours
- Worked hard to bring a great building back in to use as a public space

APPENDIX B

- Support the application as a means to correct the discrepancy between what was resolved at planning committee and what was written in to the decision notice issued
- Positive comments were made at committee about its provision of a pleasant meeting place for coffee or lunch but it has to be understood that these uses don't cover their overheads without cross subsidy of the main use for weekly public events such as film screenings and concerts which was the major use specified in the original application
- A condition which requires virtual silence after 9pm is one which renders the operation unviable in its entirety
- The Hot Tin is one of the most exciting initiatives to have been given to East Kent and has proved an ability to attract artists of international renown
- For music to cease at 9pm will have grave effects on the business and will see an end to The Hot Tin as a community cultural centre
- There is another venue within several hundred metres that is allowed to perform live music until well after 9pm
- Venues like this need support not restrictions and obstructions
- The restrictions of condition 8 severely restrict the viability of the venue and do not seem to apply to any other local venues presenting or playing music including those that are very close by or events like the Hop Festival
- It is unrealistic and unfair to expect a cultural venue to operate successfully if it has to essentially cease operating from 9pm
- As a central location most visitors can come on foot and its close to bus stops and a short walk to the station

5.2 Nine letters of objection from seven different addresses (one outside the borough) have been received and can be summarised as follows:

- When loud amplified music was played before lockdown it was extremely intrusive and detrimental to our quality of life
- Impossible to carry out a normal conversation in the house without shouting
- Couldn't hear television or enjoy our garden in the evenings
- Sunday 7th November music was extremely loud and at an antisocial level despite having double glazing installed since the previous concerts before lockdown
- The level of noise with houses close by on a regular basis is totally unacceptable
- There is no parking for a venue like this
- The Environmental Health Officer has consistently recommended restrictive measures; no amplified music in 2018 and a maximum noise level after 9pm in October this year
- The noise survey measured the LA90 background noise as 37 decibels which confirmed evening noise levels are low
- Since the committee meeting there have been two live music events which have taken place on Sunday evenings

APPENDIX B

- The noise levels on Sunday November 7th were particularly intrusive measuring up to 92 decibels by our back door so were relieved when the event stopped by 9pm – to have to listen to this any later on a Sunday evening would be particularly upsetting
- Respectfully request that the committee consider again the recommendation of a noise limit in order to give us some protection from the stress and anxiety of the noise nuisance that it creates
- The site has been advertised as a live music venue since reopening
- The noise from music on 7th and 21st November was travelling through the area from a notable distance away from the building as the music played was unrelenting and base heavy
- Visiting family who live close to the venue on 7th November – the intrusive nature of the sound was very evident and made it very difficult to continue our evening as normal
- It seems clear that without significant soundproofing the proposal is unreasonable and anti-social, preventing people being able to relax in their own homes
- If there are no limits on noise we will need to raise noise nuisance complaints with EH which is not the way we want to live our lives
- It is not good for mental health or for neighbour relations
- There is a large amount of psychological strain living next to a noisy building and it is in the power of the Planning Committee to change this
- The only logical way to protect the area is to limit the noise production, where this may impact the business, the function of a music venue was not projected as a core principle of its use, so presumably wont hamper it too drastically – unless the use was always intended to be for live music, in which case I would argue that the site was set up under false pretences

6. CONSULTATIONS

6.1 Faversham Town Council has commented on the application stating:

1) Due to the complexity and technicality of the application the Town Council wishes to comment but not make a recommendation.

2) Members support the applicants' ambitions for their business, which when operating during the day and early evening was considered an asset to the town.

3) It considered that issues have arisen since the venue started to operate as a music venue opening later. The building is not sound insulated and is in a residential area.

4) It was considered that a limit on noise should be set, whilst the Town Council felt that the present level of 37db was not appropriate for the venue it did not wish to comment on what an appropriate level would be. Members suggest that SBC seek expert advice and liaise with residents in neighbouring properties before

APPENDIX B

setting a reasonable level. Consideration should be given to what is appropriate for this type of venue, in this type of structure, in this location.

5) Members considered that having music till 11pm on Friday and Saturday would be appropriate on condition that the set sound level is enforced.

6) The Town Council asks to be consulted on license application for this venue.

6.2 The Council's Environmental Health Manager (EHM) has said:

I would re-iterate the comments made regarding the previous application (21/503772/FULL) namely:

Temporary permission for this use was granted 3 years ago. The building is of lightweight construction and as such offers little in respect of sound insulation. In this respect, the premises is unsuitable for regular amplified entertainment (live or recorded) and is more suited to acoustic/non-amplified music. I am aware that the previous planning permission permitted both amplified and non-amplified music until 10pm. With regards to Condition 2, Environmental Protection does not have any objection to the permission being granted permanently. We have not received any complaints about the current use or about music or other noise emanating from the premises. However, I am aware that both Licensing and Planning Enforcement received complaints in January 2020 regarding loud music after 10pm on 2 occasions.

In order to demonstrate the impact a noise source can have on an area, the appropriate measurement is LA90. This is a measurement of the background noise level and can be used to demonstrate what the existing or current ambient noise level is like in an area before a noise source is introduced. Ideally, when a new noise source comes into an area, it shouldn't result in any obvious change to the existing background noise level. In terms of National Planning Policy Guidance, a hierarchy of the effects of noise exposure is provided. There should again ideally be 'No Observed Adverse Effect' (NOAEL). This means that although a new noise may be able to be heard, it does not result in any change in behaviour. It can slightly affect the acoustic character of an area but not such that there is a perceived change in quality of life. An example of this is that residents do not need to close windows, turn up the TV etc.

In this respect, the best way to address the music/entertainment noise is to ensure that noise emanating from the application site does not give rise to a change in background noise levels.

In relation to that representation, noise measurements were undertaken on a Friday night in order to ascertain the background noise levels of the area. As a result of that, the following condition (condition 8) was proposed:

Noise from recorded music, live music, singing and amplified voice emanating from the premises shall not exceed the pre-existing background noise level of

APPENDIX B

37 dB LA90(5 mins) after 21:00 hours on any day at any point on the site boundary as shown edged red on the plan submitted with planning application 18/501494/FULL. Reason: In the interests of the amenities of the area.

Unfortunately, since the planning committee meeting that determined the previous application, complaints have been received regarding amplified music from 2 events held at The Hot Tin. These events were on Sunday 7th November and Sunday 21st November. The complainants have advised that on both occasions, music was clearly audible inside their home at a level that interfered with the quiet enjoyment of their home.

RECOMMENDATIONS:

Without some form of control over amplified music events being held in this building, I have concerns that the volume of noise (and bass beat) will result in a marked increase in background noise levels in the area. This has the potential to cause disturbance to local residents and complaints are likely to continue. I must therefore re-enforce the recommendation made last time that a condition relating to this is applied to the permanent planning permission.

7. BACKGROUND PAPERS AND PLANS

7.1 All plans and documentation relating to 21/506027/FULL.

8. APPRAISAL

8.1 The purpose of the current application is solely to allow the planning permission to continue on a permanent basis without complying with condition (8) which was imposed in error after Members had in fact resolved not to impose it at the October Planning Committee. That condition (8) was recommended by myself based on advice from the EHM after noise readings had been taken locally. I was disappointed by that outcome as I strongly believe that this additional condition is necessary to prevent the venue becoming a nuisance to local residents. At the meeting I sensed that, although the Council had at that time received no complaints about noise from the property other than in relation to two particular events in January 2020, Members too were concerned to protect local amenity, and I consider that by omitting condition (8) that protection will be very much reduced. I believe that my suggestion of imposing condition (8) instead of condition (7) may have contributed to that decision, although it was intended to have the opposite effect.

8.2 Whilst I note the most recent comments of the neighbouring residents and the Environmental Health Manager, the matter of noise nuisance was thoroughly debated at the October meeting and Members decided not to impose condition (8) despite my recommendation, which is their right. Since the use has resumed, I note that complaints have been received about noise relating to the two events held in November. Other than that fact, I do not believe that circumstances have changed since the October meeting and, with Members having made their decision then, unless Members now consider that circumstances have changed, or new evidence is available to point towards a different

APPENDIX B

decision being made, I can see no other option in this case but to recommend the application for approval without condition (8) which is what Members resolved in October.

9. CONCLUSION

9.1 Whilst there is some evidence arising since the October meeting that noise from this property can adversely affect local amenity, Members imposed such safeguards as they saw fit when resolving to renew the planning permission on a permanent basis. Whilst they resolved not to impose condition (8) that condition was imposed in error, and this application is simply intended to put the applicants back in the position that Members intended.

10. RECOMMENDATION – Grant subject to the following conditions:

CONDITIONS

(1) Details of any mechanical ventilation system that is to be installed shall be submitted to and approved by the Local Planning Authority and upon approval shall be installed, maintained and operated in a manner that prevents the transmission of odours, fumes, noise and vibration to neighbouring premises.

Reason: In the interests of residential amenity.

(2) No floodlighting, security lighting or other external lighting shall be installed or operated at the site without the prior written consent of the Local Planning Authority other than a traditional lantern over the main entrance door.

Reason: In the interests of residential amenity.

(3) Prior to the installation of the lantern referred to in condition (2) above, manufacturers details of the proposed lantern shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

(4) The approved lantern hereby approved shall not be illuminated except during the hours that the premises to which it relates is open for business.

Reason: In the interests of residential amenity.

(5) The premises shall be used only for the purpose of a community café and arts centre and for no other purpose, including any other purpose within Classes E, F.1 or F.2 of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

(6) The use of the premises hereby permitted shall be restricted to the hours of 8 am

APPENDIX B

to 11pm, seven days a week.

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

- (7) No recorded or live music or singing shall be permitted on the premises after 10pm on any day.

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

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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 B



PLANNING COMMITTEE – 13 OCTOBER 2022**PART 2**

Report of the Head of Planning

PART 2Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 22/501799/FULL		
APPLICATION PROPOSAL Replacement of chain link metal gate with a wooden gate of the same size (retrospective), addition of a small wooden pedestrian gate and creation of an open block paved courtyard.		
ADDRESS Tonge Mill Church Road Tonge Kent ME9 9AP		
RECOMMENDATION – that conditional planning permission is Granted		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Teynam And Lynsted	PARISH/TOWN COUNCIL Tonge	APPLICANT Dr Jonathan Iliffe AGENT
DECISION DUE DATE 20/06/22	PUBLICITY EXPIRY DATE 02/06/22	CASE OFFICER Mandi Pilcher

Planning History

SW/13/1234

Listed Building Consent for Proposed new flue on west elevation
Granted LBC Decision Date: 11.12.2013

SW/13/1094

Listed Building Consent to move flue.
Not Proceeded with Application Returned Decision Date: 02.10.2013

SW/13/0544

Listed building consent for change of use of part of the building to increase the residential accommodation to three bedrooms and provide a single holiday cottage.
Granted LBC Decision Date: 11.07.2013

SW/13/0543

Change of use of part of the building to increase the residential accommodation to three bedrooms and provide a single holiday cottage.
Grant of Conditional PP Decision Date: 11.07.2013

SW/96/0046

Listed building consent for demolition of single storey extension, alteration to external roof and cladding materials
Granted LBC Decision Date: 23.02.1996

SW/93/0475

Listed building consent for 3 additional sash windows to west elevation

Granted LBC Decision Date: 15.07.1993

SW/91/1281

Listed building consent for provision of toilet facilities & associated drainage works

Granted LBC Decision Date: 10.01.1992

1. DESCRIPTION OF SITE

1.1 The property is included in the List of Buildings of Special Architectural or Historic Interest as Grade II listed and lies within the designated Tonge Conservation Area. The building lies within the countryside outside of the Local Plan defined built-up area boundary. In planning policy terms, the site lies within a Local Green Space and within a designated rural Lane.

2. PROPOSAL

2.1 This application seeks retrospective planning permission for the replacement of a chain link metal gate with a wooden gate of the same size, the addition of a small wooden pedestrian gate and creation of an open block paved courtyard; the small pedestrian gate will be set back by approximately 1m.

2.2 The proposal is for the pedestrian gate to be painted in black, in order to match the traditional timber cladding.

3. PLANNING CONSTRAINTS

3.1 Potential Archaeological Importance

3.2 Conservation Area Tonge

3.3 Listed Buildings MBC and SBC Ref Number: 938/SW

Description: G II TONGE MILL, CHURCH ROAD, TONGE, SITTINGBOURNE, ME9 9AP

4. POLICY AND CONSIDERATIONS

4.1 Development Plan – Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies

CP4 Good design

DM14 General development criteria

DM18 Local green space

DM26 Rural Lanes

DM32 Development involving listed buildings

DM33 Development affecting a conservation area

4.2 Supplementary Planning Guidance (SPG) entitled ‘Conservation Areas’ and ‘Listed Buildings’

5. LOCAL REPRESENTATIONS

5.1 Three letters of objection have been received and summarised as follows –

- *to make the solid double gates permanent would obscure further view of Tonge Pond from the road. It has traditionally been a gate that people could look through to see the wildlife in and around the pond. Many of the trees and bushes along this stretch of road have been allowed to grow. This combined with the hedge that has recently been planted next to the gate will soon stop the view of the pond from the road completely. The view of the pond from the bottom of Scraps Hill has also completely disappeared because a parking and storage area has been created and trees allowed to grow. The Mill and Pond are in the Conservation area which becoming increasingly difficult to enjoy. Tonge pond is home to a diverse range of wildlife and is an important historical asset to the area which has been visited and viewed by walkers and families for decades. This application will deny the public the opportunity to experience this local treasure.*
- *The impact of this application will have a detrimental effect on the special character and appearance of these listed buildings and the conservation area.*
- *The original chain link fence and double gates, although not attractive, served their intended purpose – for security and at the same time allowing everyone to enjoy the views of this historic amenity, unique to Swale the centre point of Tonge: appreciated over generations*
- *We note the intended ‘softening’ of the appearance of the fence with planting. In fact, the combination of quantity of planting and positioning, together with the introduction of solid wooden gates (replacing the original chain link gates) will eventually totally obscure any views of the Mill Pond and surrounding landscape for the first in the history of Tonge.*
- *Solid wooden gates six feet tall (8ft tall from the roadside) and painted black will be an extremely dominant. Light absorbing and intrusive presence.*
- *Any planting, planters or paving which effectively restrict the width of the road and prevent pull-in manoeuvres, at this its narrowest point and just beyond a blind bend will exacerbate the likelihood of damage to this original Mill and further restrict the pedestrian right of way.*

6. CONSULTATIONS

6.1 Tonge Parish Council object commenting:

‘The Mill and its pond are historically recognised, and the pond supports a diverse range of wildlife. They form an important part of the Tonge Conservation Area. It is an area that has many visitors including walkers and families, who have appreciated its beauty, history and solitude for decades. There are now very few places from the road where visitors and locals may observe the pond because trees and foliage have been allowed to grow, also a hedge has been planted recently which will soon reduce the view completely. The double wooden gates that have already be constructed and are of a solid nature, obscure the view further. The original chain link metal gate did allow the pond to be viewed from this part of the road and we would like to see this type of gate reinstated.

The paved courtyard could become a permanent parking space for visitors to the Mill. We think that a car parked so close to an historically important building would be an eyesore and be detrimental to its setting. It would also be dangerous when cars pull on and off, as it is situated on a blind bend. Also, if a car is allowed to park there it will make it even more difficult to see the pond.

When the Mill was a shop selling pine furniture there was plenty of parking at the southeast end of the mill for visitors. The next owners Elvis and Kresse, handbag makers, erected storage on this area; in doing so reduced the available parking. This storage area also makes viewing of the pond very difficult when approaching from the bottom of Scraps Hill. It further parking is needed for the Mill maybe it could be reinstated at the southeast end of the mill.

Visitors and walkers can currently also see the pond from the southwest side by using a public footpath ZR192. We understand that an application has been made to Kent footpaths to divert this footpath so that it goes up the side of Church Road and Hempstead Lane. This will almost certainly mean that access to the pond will be fenced off, which would make the view from the road through the Mill even more vital.

We believe that although the mill and pond are privately owned, Tonge's most important historical and wildlife asset should still be able to be viewed by the public from the road and footpath as it has been done for generations. We believe that this application would prevent this.

6.2 KCC Minerals and Waste has no objections or comments to raise.

6.3 The Council's Design and Conservation Manager has made the following comments:

'The replace chain link fencing is of the same type and height as that which was failing and which it replaced. It does not require planning permission given that it is like-for-like partial replacement of the existing. Neither does the associated planting which it was suggested be provided in association with any renewal of the fencing. Once the new hedging plants have established and the highway verge on the outer side of the fence is green again, the replacement fencing will blend into its surroundings a little more readily, but it is not objectional in its current form and balance the need to provide some security to the homeowners whilst allowing important longstanding views through to the key visual focal point of the mill pond to both the residents of the old mill across the road, and visitors passing through the area.

The replacement gates (the combination of vehicular access gate and adjoining pedestrian entrance gate) represent a marked visual improvement over the old metal framed (dual access) gates they replace and once they have been painted black (to match adjacent painted joinery) they will complement the immediate setting of the new mill even more effectively.

The replacement of the current mix of asphalt, scrub/earth and hardstanding with a consistent block paved surface treatment will at worst, represent a neutral change to the character and appearance of the conservation and the setting of the two listed mill buildings, but it will without doubt provide more practical (year round) surface for the homeowners which would be easier to maintain in a good visual condition, and subject

to the specific type of (Brett) block paving to be used, it would in my view, almost certainly provide a modest visual enhancement.

I therefore raise no objection to the application and would support the new homeowners attempts to improve the listed property, particularly in the context of less-than-ideal circumstances faced by the applicants and their immediate neighbours in terms of the amount and (currently unlimited) speed of traffic that passes through the narrow stretch of Church Road between the two listed mill buildings.'

7. BACKGROUND PAPERS AND PLANS

7.1 The applicant has provided a Heritage Statement in support of the application, which states:

'Forming a continuation of the chain link fence, set at an angle was a vehicle access gate in similar metal and chain link style. For security reasons, this was replaced by a wooden gate of identical dimensions in September 2021, and the proposed project seeks retrospective permission for this. The proposal is for this to be painted in barn black, in order to match the traditional timber cladding seen on the north end of the cottage.

As well as this, the project seeks permission to move the left-hand end of the vehicle gate (as viewed from the road) back by about 1m, to fit a pedestrian access gate in the same style. In terms of the impact on the view, this will essentially be neutral as the angle subtended by the gates to a viewer on the road will be the same.

The project also seeks permission to replace the mixture of mud/concrete/asphalt with block paving that complements and matches the brickwork, in order to tidy up the area and make it easier to keep clear of litter and other debris. It will also make it possible to position small trees in pots between the door and the road, providing safer entry and protecting visitors from mud spluttering from traffic. This a significant problem at this point where two vehicles will often seek to pass each other.

We view these changes as being in line with the comments in the management plan about the inappropriate 1970s chain link fence, seeking to return the area to a more attractive and vernacular style.'

8. APPRAISAL

8.1 As the building is included in the List of Buildings of Special Architectural or Historic Interest as Grade II listed and lies within the designated Tonge Conservation Area, particular care must be taken to ensure the building is protected or enhanced by any alterations or development.

8.2 The NPPF further states that a Local Planning Authority should afford 'great weight' to the conservation of heritage assets (para.199).

8.3 Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, imposes a general duty on the Local Planning Authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

- 8.4 Policy DM32 of the Swale Local Plan 2017 states that proposals that affect a designated heritage asset, or its setting, will be permitted only where the building's special architectural or historic interest, and its setting and any features of special architectural or historic interest which it possesses, are preserved. Policy DM32 of the Swale Local Plan 2017 is consistent with the provisions of s16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.
- 8.2 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, states that for development in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Policy DM33 of the Swale Local Plan 2017 states that development proposals within, affecting the setting of, or views into and out of a conservation area, will preserve or enhance all features that contribute positively to the areas special character or appearance.
- 8.3 I am reliant on the advice given by the Council's Conservation Officer and agree that the proposal would complement the listed building itself and enhance the surrounding conservation area when compared to the gates they replaced. The gates would provide greater security and address unauthorised entrance to the property.
- 8.4 In terms of replacing the chain link fence with like for like, this does not require planning permission. Planting a hedge is not deemed as development, so would not require planning permission. Policy DM33 of the Swale Local Plan 2017 is consistent with the provisions of s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.

9. CONCLUSION

- 9.1 The proposal is considered to demonstrate good design and therefore complies with policy CP4, and protects the heritage asset in compliance with policies DM32 and DM33 of the Swale Borough Council Local Plan, Supplementary Planning Guidance on Listed Buildings, the relevant provisions of the National Planning Policy Framework 2021, as well as s66(2) & s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.

10. RECOMMENDATION - GRANT Subject to the following conditions

CONDITIONS to include

- (1) The works to which this consent relates must be begun not later than the expiration of three years beginning with the date on which this consent is granted.

Reasons: In pursuance of Section 18 of the Listed Building Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and specifications.

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

- (3) The new timber gates shall be painted black (or another colour previously agreed in writing with the LPA) within 6 months of the date of this decision notice.

Reasons: In the interest of the special architectural or historic interest of the listed building.

- (4) Details of the specific type and colour finish(es) of the Brett block paving and associated 'Aco' rainwater drainage channels to be used for the open courtyard area shall be submitted to and approved in writing by the local planning authority prior to commencement of the works to the courtyard. Such works shall take place in accordance with the approved details.

Reasons: In the interest of the special architectural or historic interest of the listed building.

INFORMATIVES

- To prevent the possible trapping of moisture in the brickwork wall of the mill building directly adjoining the new paved area, it is recommended that the paving is set back slightly (a minimum of one brick length) from the brickwork face of the building and a French drain provided.

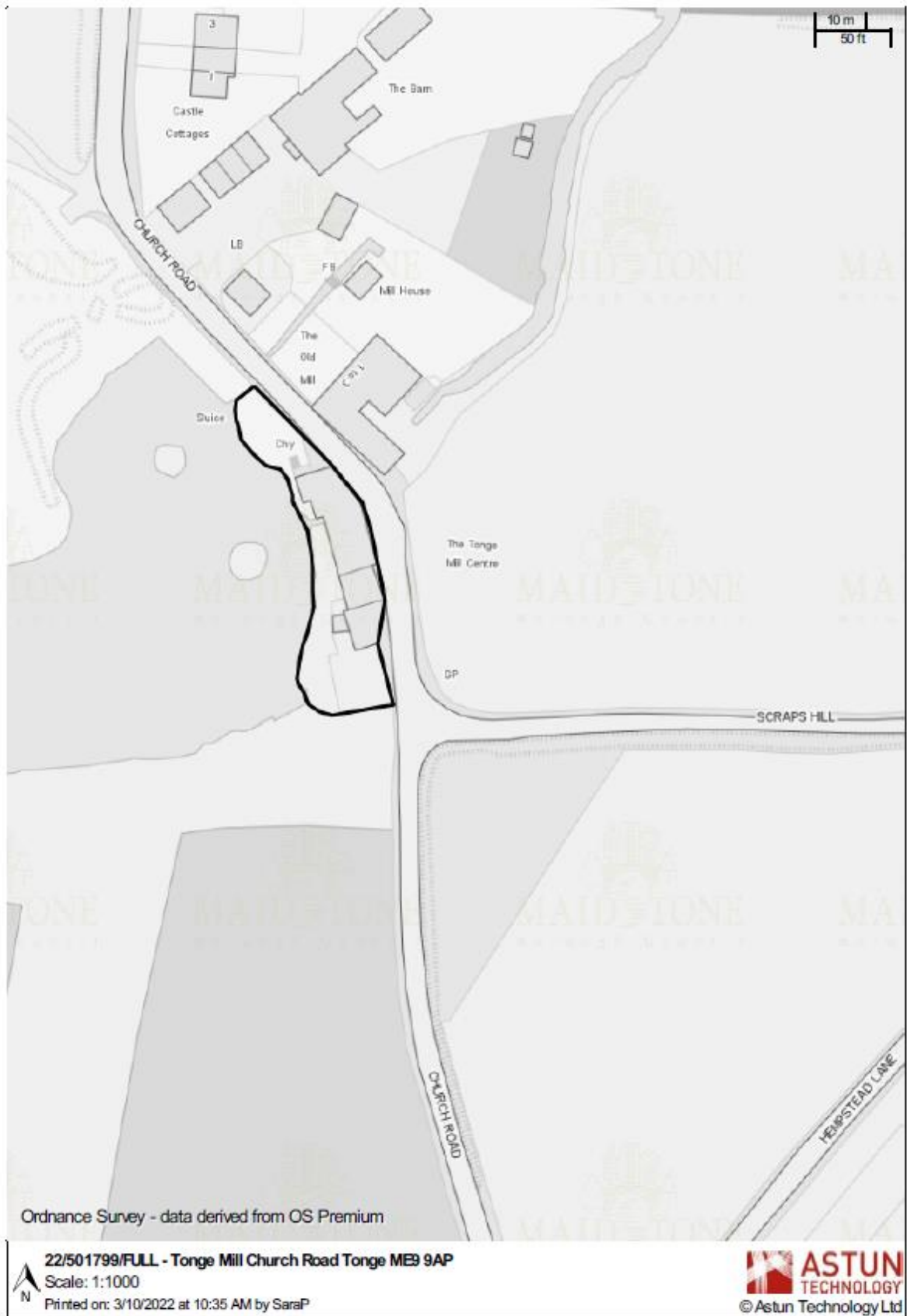
The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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.



2.2 REFERENCE NO - 21/504028/FULL		
APPLICATION PROPOSAL Erection of 25no. residential dwellings and the provision of a 20-space staff car park and 20 space pupil pick-up/drop-off area for Newington C of E Primary School, together with associated access, landscaping, drainage and infrastructure works.		
ADDRESS Land at School Lane, Newington, Kent, ME9 7JU		
RECOMMENDATION Grant subject to conditions and Section 106 agreement with delegated authority to amend the wording of the s106 agreement and of conditions as may reasonably be required.		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development would provide additional housing both market and affordable adjacent to a settlement identified on the settlement strategy as a tier 4 settlement. The proposal would also provide a car park for drop off and parking for the local school. Due to the Council's lack of 5-year housing supply the tilted balance in accord with the National Planning Policy Framework applies. The proposal benefits are considered, on balance, to outweigh the harm.		
REASON FOR REFERRAL TO COMMITTEE Parish Council Objection		
WARD Hartlip, Newington, and Upchurch	PARISH/TOWN COUNCIL Newington	APPLICANT Fernham Homes AGENT DHA Planning
DECISION DUE DATE 12/11/2021	PUBLICITY EXPIRY DATE 30/09/2022	CASE OFFICER Emma Gore

Planning History

N/A

1. DESCRIPTION OF SITE

- 1.1 The application site is located to the west of the Newington Church of England Primary School and gains access from the junction between School Lane and Breach Lane. The site forms the north-east corner of the field networks which lie to the south of Breach Lane. The eastern boundary of the site which separates the school from the site is subject to heavy vegetation.
- 1.2 The site is currently part of a wider agricultural unit and has informally been used as a temporary car park in connection with the adjacent school. The car park does not benefit from planning consent. A portion of the site is therefore not currently farmed and subject to compacted earth/hardcore. An informal access and gate are situated to the northern boundary.
- 1.3 The northern boundary of the site contains a degree of vegetation along Breach Lane which is subject to some gaps. Breach Lane and parts of School Lane are a designated rural lane under the Local Plan. Some temporary enclosure is seen to the southern and

western parts of the site. However, this area is mainly open to views across the field network.

- 1.4 The site sits just outside of the Built-up area boundary of Newington which terminates to the west of the school boundary (not including the western half of the school car park). The site is located outside of the Conservation Area and is not located within a countryside gap, or area of designated landscape.

2. PROPOSAL

- 2.1 The proposed development would be seeking to change the use of the land to provide residential accommodation (C3) and the provision of a School Car Park.
- 2.2 The proposed School Car Park would be located to the eastern boundary of the site with a pedestrian link to provide access to the school. The approximate area of the car park including the soft landscaping would be around 0.18 hectares. The car park would have a north south linear form.
- 2.3 The car park would be for school use and would provide 40 parking spaces. The proposed car park would see retention of the eastern boundary trees and would incorporate tree planting, soft landscaping, and pedestrian link to the school grounds. The vehicular access would be access of the proposed residential development from the junction between Breach Lane and School Lane.
- 2.4 The proposed residential development would be located to the western half of the site. The approximate extent of the residential areas of the site, including areas of soft landscaping, would be 1.7 hectares. The primary access would be located along Breach Lane slightly set in from the juncture with School Lane.
- 2.5 The proposal would provide 25 residential properties. The properties would be two storeys in height. Of the 25 units, 9 would be detached, 10 semi-detached, 6-terraced units. The properties would effectively be broken into three cul-de-sacs. However, pedestrian links would allow for pedestrian access around the perimeter of the site.
- 2.6 The proposal would provide 10 on-site affordable units and 15 market dwellings. Every unit would be provided with electrical vehicle charging points. The provision would include 9- 4-bedroom properties, 11 – 3-bedroom properties, and 9 – 4-bedroom properties.
- 2.7 The site would include two SUDs ponds located to the northern boundary, and a reptile mitigation area to the north-western corner of the site. The boundaries would be subject to landscaping and would include seating and natural play equipment. An access would be located to the south-eastern corner to the wider agricultural fields.

3. PLANNING CONSTRAINTS

- Outside of the Built-up area boundary of Newington,
- Designated Rural Lane to the north of the site DM 26,
- 500m Buffer from Local Wildlife Site,
- 6km Buffer Special Protection Area – SAMMs payment,
- Agricultural Land (Best and Most Versatile),
- Brickearth,

- Public Right of Way to the west of the application site, though not close to the application boundary,
- (Conservation Area and listed buildings to the east of the site).

4. POLICY AND CONSIDERATIONS

4.1 National Planning Policy Guidance (NPPF) and National Planning Policy Guidance (NPPG).

4.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017:

ST 1 – (Delivering sustainable development in Swale),

ST 3 – (The Swale settlement strategy),

CP 3 – (Delivering a wide choice of high-quality homes),

CP 4 – (Requiring good design),

CP 7 (Conserving and enhancing the natural environment – providing for green infrastructure),

CP 8 – (Conserving and enhancing the historic environment),

DM 3 – (The rural economy),

DM 6 – (Managing transport demand and impact),

DM 7 – (Vehicle parking),

DM 8 – (Affordable housing),

DM 14 – (General development criteria),

DM 17 – (Open space, sports and recreation provision),

DM 19 – (Sustainable design and construction),

DM 21 – (Water, flooding and drainage),

DM 26 – (Rural Lanes),

DM 28 – (Biodiversity and geological conservation),

DM 29 – (Woodlands, trees and hedges),

DM 31 – (Agricultural Land),

DM 32 – (Development involving listed buildings),

DM 33 – (Development affecting conservation area),

DM 34 – (Scheduled monuments and archaeological sites).

4.3 Supplementary Planning Guidance (SPG):

- Swale Landscape Character and Biodiversity Appraisal SPD
- Swale Borough Council Parking Standards Supplementary Planning Document (SPD).

5. LOCAL REPRESENTATIONS

5.1 *Newington Parish Council. Objects.*

5.2 The Parish comments have been appended to this report in full. A summary of the objection is provided below:

5.3 False justification for the proposal, car park could be secured permanently without development,

5.4 Land is still agricultural land despite the current use of the land [part of the land is used informally for car parking by the school],

5.5 The school car park in combination with the car park within the site currently would provide sufficient parking for the school,

5.6 The survey undertaken in relation to the provision of a drop off area did not include details of the provision of housing and support was for drop off only,

5.7 The location of the development at the junction of School Lane with “Mill Hill” (local name for road) is un-sustainable,

5.8 Church Lane is an ancient highway and serves as an access and egress the road often comes to a standstill partly due to the school traffic,

5.9 Boxted Lane floods for much of the year and residents and road users have been left in a situation in which on request water is pumped into tankers, when necessary,

5.10 Highway safety concerns specifically related to school children walking to school,

5.11 Proposal would result in negative highway impacts,

5.12 Harm to the landscape as a result of the proposed development being outside of the built-up area boundary,

5.13 Harm to the Air Quality of Newington (citation of various appeals),

5.14 Loss of Best and Most Versatile Land [the land is grade 1 in accord with historic records].

5.15 *Local comments:*

5.16 62 objections have been received. A summary of the points raised in the objections is set out below:

- The current traffic and parking problems along School Lane associated with the school would be exacerbated by the proposed plans,
- Requests have previously been made for bollards, yellow lines and further traffic calming measures due to traffic issues on the road,

- Quite nature of the rural roads would be disrupted,
- No proof that the proposed school car park would improve traffic conditions in the area,
- The Church already offers parking for parents,
- Significant harm to the local road network already operating beyond capacity,
- Beauty of Newington Countryside would be harmed,
- Add to the significantly poor air quality in the local area (specifically Newington),
- No further development should occur until a bypass is provided,
- The proposal would result in exacerbation of flooding issues in Boxted Lane,
- Trees and open space are required to combat climate change
- the development would result in loss of open space,
- Green roofs and living walls should be incorporated into design,
- The proposed school car park would not represent a community benefit,
- Destruction of natural habitat including loss of flora and fauna,
- The site is not allocated within the Local Plan,
- Cropped field for 25 years would be lost, instead the land should be retained for food production
- Further housing would result in increased congestion and crowding of single-track roads,
- The transfer of ownership of the proposed car park to the school would be a further financial burden,
- The proposal is a prelude to further development across the field,
- Existing car park should be returned to a green field after associated development was completed,
- Views of the area from public footpath would be disrupted and eroded,
- Disingenuous to suggest that the car park is focus of the development,
- Existing services not sufficient to cope with the proposed development further pressure would be harmful,
- Encroachment on the rural landscape outside of the defined geography of the development,
- Highway safety issues walking narrow footpaths proposed, blind bends, pedestrians in the road,

- Newington, as a result of cumulative development, now resembles a small town,
- Church Lane faces significant traffic issues particularly with existing parking pressure with no parking for existing terrace properties,
- Restricted height of bridge also results in delivery and traffic issues,
- Transport Statement is disingenuous with surveys undertaken over small period of time and during lockdown,
- The car park would only have a short-term gain as pick up and drop off times are limited during the week,
- The significant air pollution would be further exacerbated,
- Fields are required to absorb surface water run-off and the loss of fields would result in further flooding issues,
- Cumulative development in Newington is significantly destroying the local countryside,
- Benefits to mental health through open space and walking areas will be reduced by the proposed development,
- The potential additional 50-75 vehicles added to the road would be harmful to air quality and noise pollution,
- Lack of infrastructure to cope with additional development severe lack of GP surgeries,
- Due to single track roads, parking issues, and traffic impact would prevent fire access,
- Potential increase in litter and pressure on bin men in local area,
- Planning should take account of the community and county not just housing,
- Human health impact,
- Development would be prominently visible in the landscape,
- The existing car park should be compulsorily purchased,
- Street lighting not illustrated and light pollution should be limited to protected ecology,
- Existing developments have an existing impact in regard to road works, gas leaks, power cuts and traffic jams,
- Village not appropriately funded by the Council to cope with increased population,
- Overloaded drainage,
- Newington has already lost a meadow, orchards, and farmland,
- Poor road visibility,

- Bank outside of Blaxland Grange was designed to be in keeping with the rural character, bollards put up to protect utilities, proposal would see 2m wall which would result in safety issues for children and be out of keeping,
- Promotion of urban sprawl,
- Ponds next to schools should be secured and protected,
- House prices would not be viable for affordable properties,
- Heritage Report does not reflect the findings in the local area for which significant architectural finds have been located,
- Proposal fails to conserve and enhance the landscape and character of the area,
- Development would result in loss of habitat and put pressure on existing wildlife.

6. CONSULTATIONS

CONSULTEE	COMMENTS RECEIVED
Kent County Council Minerals	<p>1st comment:</p> <p>Thank you for consulting the County Council's Minerals and Waste Planning Policy Team on the above planning application.</p> <p>I can confirm that the application site is not within 250 metres of a safeguarded minerals or waste management facility. Therefore, it does not have to be considered against the safeguarding exemption provisions of Policy DM 8: Safeguarding Minerals Management, Transportation, Production and Waste Management Facilities of the adopted Kent Minerals and Waste Local Plan 2013-30.</p> <p>With regard to land-won minerals safeguarding matters it is the case that the area of the application site is not coincident with a safeguarded mineral deposit in the area.</p> <p>The County Council has therefore no minerals or waste safeguarding objections or further comments to make regarding this proposal.</p> <p>2nd Comments:</p> <p>Thank you for consulting the County Council's Minerals and Waste Planning Policy Team on the above planning application's revised information.</p> <p>The County Council has no minerals or waste management capacity safeguarding objections or comments to make regarding this proposal.</p>
Kent County Council Flood and Water Management	<p>1st Comment:</p> <p>Thank you for your consultation on the above referenced planning application.</p> <p>Kent County Council as Lead Local Flood Authority have reviewed the Flood Risk Assessment and the Drainage Strategy prepared by Fairhurst dated July 2021 and agree in principle to the proposed development.</p> <p>The proposals seek to utilise a combination of permeable paving leading to infiltration basins which is considered to provide a significant betterment and ensure compliance</p>

	<p>with the discharge hierarchy.</p> <p>At the detailed design stage, we would expect to see the drainage system modelled using 2013 FeH rainfall data in any appropriate modelling or simulation software. Where 2013 FeH data is not available, 26.25mm should be manually input for the M5-60 value, as per the requirements of our latest drainage and planning policy statement (June 2017).</p> <p>Should your authority be minded to grant permission for the proposed development, we recommend the following conditions are attached: (please see online response for conditions).</p> <p>2nd Comment Thank you for your consultation on the above referenced planning application.</p> <p>We have no further comment to make on this proposal and would refer you to our previous response on 9 September 2021.</p> <p>This response has been provided using the best knowledge and information submitted as part of the planning application at the time of responding and is reliant on the accuracy of that information.</p>
Environment Agency	<p>1st Comment: Thank you for consulting us on the above planning application.</p> <p>We have assessed this application as having a low environmental risk. We therefore have no comments to make.</p> <p>Non planning consents 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 licences for different activities (such as water abstraction or discharging to a stream), and we have a regulatory role in issuing and monitoring them.</p> <p>The applicant should contact 03708 506 506 or consult our website (https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit) to establish whether a consent will be required.</p> <p>If you feel we should assess this planning application in more detail due to local issues please email KSLPLANNING@environment-agency.gov.uk.</p> <p>2nd comment: We have no further comments to make on this planning application.</p>
Southern Water	<p>1st Comment: Thank you for your letter dated 19/08/2021.</p> <p>Our initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.</p> <p>To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read our New Connections</p>

Charging Arrangements documents which are available on our website via the following link:

southernwater.co.uk/developing-building/connection-charging-arrangements

The supporting document proposes to retain the SuDS within private ownership and maintenance. However, under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be considered if such systems comply with the latest Sewers for Adoption (Appendix C) and CIRIA guidance available here:

water.org.uk/sewerage-sector-guidance-approved-documents

ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx

Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SuDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors.

We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved

in writing by, the Local Planning Authority in consultation with Southern Water.

This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption of the foul and surface water

sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

It is possible that a sewer now deemed to be public could be crossing the development site.

Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

	<p>Our investigations indicate that Southern Water can facilitate water supply to service the proposed development. Southern Water requires a formal application for a connection to the water supply to be made by the applicant or developer.</p> <p>To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on our website via the following link: southernwater.co.uk/developing-building/connection-charging-arrangements</p> <p>2nd comments: The comments in our response dated 15/09/2021 remain unchanged and valid for the amended details.</p>
Lower Medway Drainage Board	No response.
Kent Wildlife Trust	<p>Thank you for consulting Kent Wildlife Trust. On reviewing the planning portal and the documents that have been submitted; it is difficult to make an informed response without viewing the Ecological Mitigation Strategy or a detailed Biodiversity Net Gain (BNG) proposal for the site.</p> <p>We would advise that, in line with the upcoming Environment Bill that BNG be assessed using the current Natural England Biodiversity Metric. The upcoming Bill states that at least 10% BNG should be delivered.</p>
Kent County Council Biodiversity	<p>1st Comments: We have reviewed the ecological information submitted by the applicant and advise that sufficient ecological information has been provided.</p> <p>Designated Sites The development includes proposals for new dwellings within the zone of influence of the Medway Estuary and Marshes Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar Site). Swale Borough Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.</p> <p>A decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full 'appropriate assessment' is needed under the Habitats Directive. Therefore, we advise that due to the need for the application to contribute to the North Kent SAMMS, there is a need for an appropriate assessment to be carried out as part of this application.</p> <p>Reptiles A small population of slow worms were found on-site. As all species of reptile are protected, mitigation measures will be needed to facilitate works.</p> <p>A suitable reptile mitigation strategy has been proposed, which includes a translocation exercise to an on-site receptor area. Given the proposed wildflower grassland throughout the development, we highlight that there should be enough habitat to accommodate reptiles on-site.</p>

To secure the implementation of the reptile mitigation strategy, we advise that a condition is attached to any granted planning permission. Suggested wording:

From the commencement of works (including site clearance), all reptile mitigation measures will be carried out in accordance with the details in section 8.8 Interim Ecological Assessment (Bakerwell July 2021).

Bats and Lighting

To mitigate against potential adverse effects on bats, and in accordance with paragraph 180 of the National Planning Policy Framework 2019, we suggest that the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting' is consulted in the lighting design of the development. We advise that the incorporation of sensitive lighting design for bats is submitted to the local planning authority, as recommended in the ecology report, and secured via an attached condition with any planning permission. Suggested wording:

Prior to occupation, a lighting design plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.

Biodiversity and Ecological Enhancements

Under section 40 of the NERC Act (2006), and paragraph 180 of the NPPF (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2021, the implementation of enhancements for biodiversity should be encouraged.

The report recommends suitable enhancements, such as native hedgerow and tree planting. Additionally, we are supportive of the proposed wildflower grasslands (although the illustrations do not appear to be typical native meadow grassland – we advise that native wildflower seed mixes are sourced from reputable sources).

To secure the implementation of enhancements (including the management prescriptions of the meadow grassland), we advise that a condition is attached to any granted planning permission. Suggested wording:

Within six months of works commencing, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the local planning authority. This will include recommendations in section 9 of the Interim Ecological Assessment (Bakerwell July 2021). The approved details will be implemented and thereafter retained.

2nd comment:

We have reviewed the ecological information submitted by the applicant and advise that sufficient ecological information has been provided.

Protected Species

Given the intensively-farmed arable nature of the site, there is little protected species interest on-site. However, there is potential for reptiles, dormice, badgers (foraging/commuting only) and breeding birds to be impacted from the development, mostly within and around the boundary vegetation.

As such, a precautionary approach has been proposed to safeguard protected species during construction (except for reptiles, which will be subject to a full translocation

exercise to on-site receptor site). We advise that proposals are suitable, and mitigation should be secured via a condition with any granted planning permission. Suggested wording:

From the commencement of works (including site clearance), all mitigation measures for protected species will be carried out in accordance with the details contained in sections 8.5 through to 8.16 of the 'Interim Ecological Assessment' (Bakerwell July 2021).

Lighting and Biodiversity

To mitigate against potential adverse effects on bats, and in accordance with the National Planning Policy Framework 2021, we suggest that section 8.4 of the ecology report is consulted in the lighting design of the development. We advise that the incorporation of sensitive lighting design for bats is submitted to the local planning authority and secured via an attached condition with any planning permission. Suggested wording:

Prior to occupation, a lighting design plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.

Biodiversity and Ecological Enhancements

Under section 40 of the NERC Act (2006), paragraph 174 of the NPPF (2021) and the Environment Act (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2021, the implementation of enhancements for biodiversity should be encouraged.

The submitted biodiversity net-gain report shows that a net-gain can be achieved. Primarily, this is achieved through native species planting and creation of a variety of habitats, including wildflower grassland (one of the most valuable additions for biodiversity).

We assume that an agreement has been/will be reached (through a S106 agreement or similar) for management of the open space. Specifically, careful management of the wildflower grassland is vital to ensure it establishes. Additionally, there is a need to ensure the wildflower seed mix (if used) is of native provenance and site-appropriate. The illustration of the wildflower grassland within the landscape masterplan does not appear to be a natural/native meadow.

To ensure that management of the proposed landscaping is appropriate, we advise that a 'Landscape and Ecological Management Plan' (LEMP) is secured via condition with any granted planning permission. Suggested wording:

Prior to completion/first occupation, A Landscape and Ecological Management Plan (LEMP) will be submitted to, and be approved in writing by, the local planning authority. The LEMP will be based on the 'Landscape Masterplan' Rev B (Murdoch Wickham July 2021) and will include the following.

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management prescriptions for achieving the aims and objectives;
- e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);

	<p><i>f) Details of the body or organisation responsible for implementation of the plan;</i> <i>g) Ongoing monitoring and remedial measures.</i> <i>The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.</i></p>
Natural England	<p>1st Comment: Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance.</p> <p>Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound.</p> <p>Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).</p> <p>However, our advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017. (further comments online).</p> <p>2nd Comment: Natural England has previously commented on this proposal and made comments to the authority in our letter ref 365645, dated 15 September 2021.</p> <p>The advice provided in our previous response applies equally to this amendment.</p> <p>The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.</p>
Housing	<p>1st comment: As per adopted Planning Policy DM8 and because this development is located in Newington, 40% of the total number of homes should be rounded up to deliver 10 affordable homes with the tenure split to be 90% as affordable/social rented housing (9 homes) and the remaining one home (10%) to be an intermediate rented/shared ownership home. However, during the pre-application stage, and as referenced in Appendix 2 of the Affordable Housing Summary Statement, it is accepted that it may be difficult to secure an RP to deliver the low number of ten affordable s106 homes on this site. Due to this and if necessary, I have agreed that if an RP cannot definitely be secured to purchase the affordable units then consideration can be given to providing them as First Homes with the Council agreeing to all eligibility conditions, including local connection and key worker criteria attached to the sale of each home.</p> <p><input type="checkbox"/> I note that the ten affordable housing plots detailed within the Affordable Housing Summary Statement are 8, 9, 10, 24 & 25 (2B3P homes) and plots 11, 12, 17, 18 & 23</p>

	<p>(3B5P homes). I am happy to accept the mix of size and type of homes along with the location and distribution of them.</p> <ul style="list-style-type: none"> □ All of the affordable homes should be built to M4(2) standard, and if tenure allows, at least two homes should be provided to M4(3) building regulation standard. □ I can confirm that Swale’s Housing Register demonstrates a need for all types and sizes of affordable accommodation in this area of borough, particularly affordable and social rented homes that specifically meet the increasing need and demand of those who are homeless in the borough and residing in Temporary Accommodation. <p>2nd comment: Although this 50:50 tenure split deviates from Swale’s Planning Policy, to enable the ten homes to be actually delivered as a fair mix of affordable housing units which includes rented homes for those on the Council’s housing register, I am happy on this occasion to accept this split, including how the property types/sizes have been divided by WKHA.</p> <p>3rd comment: Further to discussions today about a varied tenure split for the affordable homes on this site. I can advise that as the planning application is not yet determined, First Homes will now be required as part of the DM8 40% s106 affordable housing contribution (10 affordable homes in total) and that as a result an updated tenure split is now required as detailed below:</p> <p>Regarding the requirement for 25% of the s106 affordable contribution to be provided as First Homes. The Written Ministerial Statement (WMS) of 24 May 2021 and the National Planning Policy Guidance (NPPG 2021) is now relevant and should be taken into account, this sets out that:</p> <ul style="list-style-type: none"> ▪ A minimum of 25% of all affordable housing units should be provided as First Homes; and ▪ The transitional arrangements mean that the new requirement for 25% First Homes will only not apply to sites with full or outline planning permissions in place by 28 December 2021 <u>or</u> determined by 28 March 2022 if there has been significant pre-application engagement. <p>Therefore, this site is now subject to providing 2 First Homes (25%) as part of the s106 affordable housing contribution in order to comply with latest national policy. The remaining 8 (75%) affordable homes should be provided as social rented housing in accordance with First Homes policy and guidance that requires “Once a minimum of 25% of First Homes has been accounted for, social rent should be delivered in the same percentage as set out in the local plan”. The Council’s adopted local plan (7.3) requires a tenure split of 10% intermediate housing with 90% affordable/social rented housing. This now means that when taking account of the new First Homes requirements, the remaining 75% of s106 affordable housing should in the first instance be secured as social rented.</p>
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Kent County Council Developer Contributions		Per Applicable House	Total	Project
	Primary Education	£6800.00	£170,000.00	Towards the construction of a new 2FE Primary School in Sittingbourne
	Secondary Education	£5,176.00	£129,400.00	Towards the new Secondary School construction upon land off Quinton Road, NW Sittingbourne policy MU1
	Special Education Needs	£1,051.82	£26,295.50	Towards new Specialist Resource Provision at Newington Primary School
	'Applicable' excludes: 1 bed units of less than 56 sqm GIA, and any sheltered accommodation. Please advise if there are any 1 bed or sheltered units proposed?			
		Per Dwelling (25)	Total	Project
	Community Learning	£16.42	£410.50	Towards additional resources at Sittingbourne Adult Education Centre
	Youth Service	£65.50	£1,637.50	Towards additional resources for the Youth service in Swale Borough
	Library Bookstock	£55.45	£1386.25	Towards additional services, resources, and stock for Sittingbourne Library
	Social Care	£146.88	£3672.00	Towards Specialist care accommodation, assistive technology systems, adapting Community facilities, sensory facilities, and Changing Places within the Borough
	All Homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)			
Waste	£183.67	£4,591.75	Towards additional capacity at the HWRC & WTS in Sittingbourne	
Broadband:	<p>Condition: Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mbps) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.</p> <p>Reason: To provide high quality digital infrastructure in new developments as required by paragraph 114 NPPF.</p>			
Highways	Kent Highway Services will respond separately			
Please note that these figures:				
<ul style="list-style-type: none"> are to be index linked by the BCIS General Building Cost Index from April 2020 to the date of payment (April 2020 Index 360.3) are valid for 3 months from the date of this letter after which they may need to be recalculated due to changes in district council housing trajectories, on-going planning applications, changes in capacities and forecast rolls, projects and build costs. 				
Environmental Health	<p>1st Comment:</p> <p>I have reviewed the application and provided comments below:</p> <p>Air Quality: The pickup/drop off area has been successful in reducing congestion outside of the school in the past, therefore I support the idea of securing this as part of the wider application</p> <p>AQ Assessment: I have reviewed the assessment that has addressed both impacts of the construction and operational phases. This includes the assessment of 4 baseline and future scenarios which are comprehensive and in line with best practice guidance. As with other applications in Newington the operational phase for the development site alone shows negligible impacts, whilst the cumulative impacts are high because of the inclusion of Medway developments.</p>			

	<p>As part of the air quality assessment process, we can consider the cumulative impact in this area and it shows that we need to consider a wider mitigation scheme for further development happening within the area.</p> <p>There are approximately four small application sites for Newington currently under consideration within SBC which could go towards a wider scheme such as an improvement to the bus service. However, these alone will not equate to the cost amount needed for such a scheme. As mentioned in the other applications, if a Bus improvement plan was considered for this area, other application sites in Sittingbourne and Rainham (that link with the bus route) would need to contribute via S.106 to make this viable.</p> <p>A damage cost (£13,000) has been calculated as part of the assessment and is representative of the scale/ traffic flows for the development. The suggested mitigation options are appropriate and can form part of an agreement to mitigate the effects of the development, which should be secured by the S. 106 agreement.</p> <p>Due to the size of this development the air quality impacts from the AQA are very low with negligible impact compared to other already committed development sites. As a result, I have no grounds to object to the current application on air quality grounds.</p> <p>Noise: I can see keeping the existing trees in between the school and development site provides a useful buffer. I do not think a noise assessment is required due to the proximity of houses to the school and the use of the buffer zone.</p> <p>Contaminated land: I would recommend a Phase 1 desk study to assess the historic background and potential contaminated land at this site (i.e., historic arable land at the site and proximity to graveyard), as part of a contaminated land assessment. This assessment may identify that a phase 2 intrusive investigation is required, and possible remediation is needed prior to any works takes place. For this reason, I would recommend CL conditions to be included.</p> <p>(conditions provided online comments).</p>
KCC Highways	<p>1st Comment:</p> <p>The applicant's highway consultant has produced a Transport Statement (TS), and I will comment on relevant sections within it as follows were appropriate:</p> <p>2.7 Parking on Church Lane As had been advised during pre-application discussions, a review of the parking and interaction with traffic flow on Church Lane has been provided. However, the observations noted in the TS do not reflect my own experience with this section of road, and further studies should be carried out to verify the conclusions drawn. The assessment has not considered what level of traffic flows pass through Church Lane or how additional traffic may affect this, particularly with the interaction at its junction with the A2 and how queues may block movement.</p> <p>The TS notes that parking was particularly evident to the south of the railway bridge, and that gaps were present at that time to allow vehicles to pass one another. This may have been the case on the particular visit undertaken for the TS, but historic experience would suggest that parking is in high demand and often there are no opportunities for vehicles to pass one another over the circa 130m stretch between the waiting restrictions at the A2 junction and those under the bridge. Vehicles in general have to wait at one end or the other of this section to allow opposing traffic to pass the full</p>

distance, which in turn creates trains of vehicles as queues then form behind the waiting car given the length of time it takes vehicles to travel the 130m.

I would also highlight that due to the road alignment, northbound traffic from the A2 has a restricted view past the first parked vehicle, and has to commit to pulling out into the opposite lane in order to see whether the route ahead is clear.

Paragraph 2.7.3 of the TS suggests that the provision of the formal car park to serve the school will reduce the number of vehicles that currently park in Church Lane, and presumably School Lane too. It is evident that the application site already provides a car park for the school, but no information has been provided to detail the comparative capacity between the existing and proposed facility to validate the assertion.

3.2 Development Proposals

Vehicular Access

The proposed new junction onto the un-named road generally appears to be suitable for serving the development, pulling the access further west away from the Boxted Lane/School Lane junction, and widening the carriageway along this section to accommodate the two-way traffic and the swept path of large service vehicles.

In addition, I am satisfied that the junction visibility splays to be provided at both junctions are appropriate and in accordance with the measurements derived from the Sight Stopping Distance calculations explained in both Manual for Streets 2 and Kent County Council's supplementary guidance, IGN2. Whilst I note that the western sightline from the proposed new junction is based on a 30mph speed limit, and paragraph 3.2.4 proposes the extension of the current restriction to accommodate, the drawings do not detail the extension in order to indicate the new position of the associated signage.

3.2.6 Coloured (shaded) drawings should be provided to clarify the areas of the development to be offered for adoption under Section 38 Agreement, and to identify the off-site highway works areas that will need to be carried out under a Section 278 Agreement. The latter will need to be referenced to the current adopted highway boundary.

Pedestrian Access

Pedestrian access to link the site to the existing footway network has been proposed by the creation of a footway from the proposed new junction and along the remainder of School Lane.

I note that the drawings detail that this footway would measure 1.8m in width around the new junction and alongside the un-named road to School Lane, where it would then reduce down to being 1.2m wide. This provision is generally welcomed, although I will pick this specific detail up in my further comments below in section 3.4, when referring to the recommendations made by the audit team in the Stage 1 Road Safety Audit.

The development itself has been designed as a shared space with no footways within the proposed layout, which is normally acceptable for serving up to 25 dwellings. However, the main north/south spine road would also serve as the route to the school car park and drop-off zone, where vehicular activity and pedestrian movement will coincide. It would therefore be appropriate to separate these uses and provide a footway along the spine road too.

3.3 Agricultural Access

The TS refers to the improvement of the existing field accesses to the west of the application site, and has provided swept path analysis to demonstrate that agricultural

vehicles will be able to manoeuvre in and out of the fields. I note, however, that those improvements are outside of the application red line, so it is not clear whether this does form part of the current application.

The additional agricultural access from the southeastern corner of the development is also noted, and the swept path analysis that has been carried out to demonstrate that farm vehicles, including a combine harvester can serve the separate field there. It would be considered more appropriate to avoid the need for these vehicles to pass through the residential development, and instead retain or amend the exiting connection between the two fields.

3.4 Road Safety Audit

2.1 Location A – The auditors had recommended that the “y” distance visibility splays at the School Lane/Boxted Lane junction be increased to reflect a possible increase if vehicle speeds above those measured, to 25mph. I note that the submitted drawings have responded to the recommendation, and that splays in excess of this can be achieved in practice due to the position of the junction being on the outside of the bend.

The Designer’s Response that has agreed with and carried out the recommendation can therefore be accepted.

2.2 Location B – The proposed new footway to link between the junction of Boxted Lane/School Lane and the existing footway at Grange Mews had been submitted for the Road Safety Audit at a width of 1.2m, and the audit team has recommended that this be increased to a minimum of 1.5m, preferably 1.8m. The Designer’s Response notes the physical constraints in being able to comply with this recommendation, and has stated that the width along the section on the south side of School Lane has been increased to 1.5m, but it is not possible to provide greater than 1.2m on the northern section due to the need for a retaining wall. They also refer to Kent Design Guide that allows an absolute minimum width of 1.2m.

However, the submitted drawings 15058-H-01 Rev P and “Proposed Footway” still show a 1.2m wide footway along the southern section between the school site car park and the junction with Boxted Lane, rather than the 1.5m that had been agreed by confirmation in the Designer’s Response. The drawings should be amended to increase the width here, as confirmed would be proposed. Notwithstanding the above, given no retaining wall is suggested on this side of the road, it is not clear why the 1.8m wide footway cannot continue from the development to the proposed crossing point.

As referenced above with respect to the proposed footway on the northern side of School Lane, it has been suggested that the need for a retaining wall would not allow a wider provision to be created. No consideration appears to have been given to the possibility of altering the carriageway alignment to cater for the requested additional width of the footway, which may be possible to accommodate within the available highway extents.

2.3 Location C – The audit identified that the existing formal carriageway width between Boxted Lane and the school shows evidence of frequent vehicle overrun beyond the 4.2m width, and recommends this being widened to a minimum width of 4.8m. The Designer’s Response suggests that the carriageway will be widened to this measurement adjacent to the existing retaining wall, and the proposed footway strengthened to withstand vehicles bumping up the kerb. Given this is likely to occur during the busier periods at the start and end of the school day, when pedestrian use is also likely to be heavier, the wider carriageway and footway would be appropriate to avoid conflict. As mentioned with item 2.2, consideration of the available highway extents should be given to accommodate carriageway realignment.

In addition, the Designer's Response suggested that some of the overrunning is due to vehicle parking at the start and end of the school day, which would be resolved by the provision of the proposed formal car park and drop-off area within the development. I would refer back to my clarification over the comparison between the capacity of the existing and proposed car park, to see whether this is likely. It may also be the case that those who would normally have parked further away may just replace those who transfer into the new car parking facilities, unless controls are put in place to prevent this.

3.5 Parking

The TS confirms that a total of 60 residential parking spaces will be provided across the site, in accordance with the Swale Borough Council parking Standards. These are broken down into 47 on-plot bays and 13 garages or open-sided car barns. I do note that the double garages do not appear to meet the minimum size specified (7m by 6m), and the car barns may also be too small where these are not completely open sided due to the attached house and any boundary/security fencing that may surround these barns. Please note too that garages would not count towards the parking provision in this type of location, so the 4-bed plots 5, 13, 20 and 22 would be considered underprovided for in the parking strategy plan drawing, except plot 5 that could almost accommodate tandem spaces on the driveway.

The on-street visitor spaces are not well related to the spread of houses in some areas. Based on a general principle that each space serves 5 dwellings, it is considered that the 10 dwellings consisting of plots 7 to 12 and 16 to 18 are poorly served by just 1 space. Similarly, plots 1 to 5 do not have any on-street visitor spaces nearby.

3.6 Site Servicing

Swept path analysis demonstrates that the development can be serviced by the refuge vehicle and fire appliance, and the parking spaces within the school drop-off/pick-up area can also be accessed. However, the orientation of the one-way system within this area does concentrate the conflicting vehicle movements at the exit onto the development spine road, as departing vehicles would have to cross the flow of arrivals at a location that is close to several other junctions. The conflict would be minimised if the exit became the entrance, so that departing vehicles would emerge at the southern access point.

3.7 Construction Traffic

The imposition of a Construction Traffic Management Plan is noted to manage vehicle movements and routing during the construction of the development, should the Local Planning Authority grant approval to the development. Details of these measures would need to be submitted for approval prior to the development commencing, and secured by condition. It is expected that similar measures would need to be implemented to those put in place during the construction of the recent Grange Mews development opposite this site.

4.5 – 4.6 Swale Parking Standards SPD 2020 & Policy Compliance

As referred to in section 3.5 above, Swale Borough Council parking standards confirm that garages do not count towards the parking provision. The 4-bed units require 3+ parking spaces, but the proposals would only provide 2 spaces for plots 5, 13, 20 and 21. This contradicts with the statement made in paragraph 4.6.4 regarding policy compliance. In all other instances, it is

noted that the lower provision of the quoted standards for 2, 3 and 4-bed units have been proposed, which means that the overall flexibility is reduced to accommodate variations in demand. On-street parking, particularly along the spine road where a shared need is envisaged and demand is expected, will need to be sufficient to give some comfort to absorb overspill.

5.2 Proposed Development Vehicle Trip Generation

I am satisfied that the appropriate selection parameters have been used in the TRICS database to estimate the trip generation for both the private and affordable housing elements of the proposed development. Consequently, the total development trip generation summarised in Table 5-5 is agreed. Whilst this doesn't include the trips associated with the proposed school drop-off and pick-up facility, it is accepted that these movements would already be on the highway network and passing along Church Lane. The development would therefore be expected to generate 15 additional vehicle movements during the AM peak hour and 12 during the PM peak hour.

5.3.2 Vehicular Trip Distribution & Assignment

Although the TS summarises in Table 5-6 the trips entering the A2/A249 junction interchange and Key Street roundabout, no traffic flow diagrams or evidence of the census data and journey planning has been provided to validate these numbers. This evidence and flow diagrams should be provided in order to allow me to fully assess the proposals.

I can therefore confirm that I would ask that the application is not determined, other than for refusal, until the additional information and amended plans have been submitted for my further consideration.

2nd Comment:

Thank you for consulting the Highway Authority following the submission of amended plans and additional information in respect to the above planning application:

I note that further studies have been carried out to consider the traffic distribution associated with the development and how this will impact the existing highway network, as had been requested, based on journey to work Census data and represented on Figures 0-1 to 0-3 distribution and development flows. Using the agreed trip rates, this indicates that the proposals would be likely to generate around 12 two-way movements (4 arrivals and 8 departures) on Church Lane in the AM peak hour, and 10 two-way movements (7 arrivals and 3 departures) in the PM peak hour. The addition of 1 movement every 5 minutes on average would be considered to have a negligible impact on the operation of Church Lane in the context of the existing traffic flows, and the activity associated with pupils being dropped off at the school in the morning. In addition, video evidence has been submitted to validate the parking levels observed on Church Lane that had been referenced in the original Transport Statement.

The development flows would indicate that the proposal is likely to generate a total of 14 vehicle movements through Key Street roundabout over the AM and PM peak hours, so would be obliged to contribute towards the junction improvements that have been identified there. A financial contribution of £16,800 would therefore need to be secured, if this development were to be approved.

The proposed school car park and drop-off facility would provide an extra 20 parking spaces than the current informal area, as well as additional circulation space away from School Lane for vehicles to use, removing parking demand and pressure from the existing highway in the vicinity of the school. This would be considered an improvement on the current situation, and it is noted that the latest proposals do now include the requested widening of School Lane between the school and the proposed access to accommodate 2 vehicles passing one another without overrunning the verges. These

works also create a 1.8m wide footway on the southern side of School Lane from the site access, crossing to a 1.5m wide footway on the northern side as had been requested. Pedestrians will therefore be able to walk along School Lane in future, separated from vehicular traffic, in addition to the direct link into the school itself from the proposed car park.

The changes to School Lane shown on the submitted drawings include the introduction of waiting restrictions to prevent parent parking along the widened section of road and beyond, and the extension of the existing 30mph speed limit. The developer would be required to progress Traffic Regulation Orders at their own expense to implement these enforceable measures. During that process it would be appropriate to review the parking restrictions in the area, and this may also include any changes to Church Lane that may be beneficial to address

congestion issues. In particular, to address the restricted view that currently exists for northbound traffic preventing them from seeing whether the single file length down towards the bridge is clear for them to proceed.

A drawing has now been submitted to indicate the extent of the development that would be offered to the Highway Authority for adoption as highway maintainable at public expense. This shows that it is only intended for the spine road running north/south to be adopted, serving the accesses to the school car park, and for the residential streets with house frontages to remain in private management. However, it should be noted that the Highway Authority considers that some of the proposed private streets could also be offered for adoption.

The development has been amended to remove the one-way circulatory route that was likely to have encouraged higher vehicle speeds, and is now laid out as a series of cul-de-sacs off the spine road, linked together by pedestrian footways. With regard to the new layout, I would comment as follows:

1. The refuse strategy drawing shows the freighter accessing the street fronting plots 1 to 5, but the swept path analysis on drawing 4176-SP04 revision B does not include the route shown on the strategy plan. This must be shown to demonstrate that the vehicle will be able to access all the areas it is intended to route through. It is considered that the turning area to enable the vehicle to exit the adoptable highway in a forward gear should also be included within the adoption.

2. No visitor parking is provided within a convenient distance of plots 1 to 5 to serve this stretch of housing. It would be expected that an on-street parking space should be located within that cul-de-sac.

3. As previously mentioned in the last consultation response, the 4 bedroom units should have 3+ parking spaces, not including the garages. Plots 5, 13, 20 and 21 have just 2 spaces plus a double garage each;

i. Whilst plots 13, 20 and 21 will likely park the third or fourth vehicle in tandem to their allocated spaces, the area to do this is slightly too short, as the 10m tandem length requires an additional 1m to account for the garage door access. It should also be demonstrated that vehicles can manoeuvre from these tandem spaces, as this appears restricted.

ii. Plot 5 would not have any ability for tandem arrangements to provide the third parking space as there is insufficient distance to set the spaces back enough to park another vehicle in front of another.

4. The footway along the spine road does not transfer pedestrians into the shared space areas serving plots 1 to 5, 6 to 19 and 20 to 22, which will therefore require pedestrian to walk in the junction carriageway and across the speed ramps.

	<p>5. Parking spaces for plots 6 and 8 to 11 are positioned immediately against the edge of the carriageway, which provides no buffer between a vehicle emerging from those parking spaces and another vehicle traveling along the street on that side of the road. The parking spaces should be set back at least 1m from the running lane.</p> <p>I would be grateful if you would forward any additional information and amended plans for my further consideration.</p> <p>3rd Comment:</p> <p>address the outstanding issues raised in my previous consultation response dated 4th May 2022.</p> <p>I am satisfied that the amendments have resolved the remaining matters as follows:</p> <ul style="list-style-type: none"> • Visitor parking provision has been increased to respond, and additional parking spaces created for the 4 bedroom units that had been identified as having a shortfall from the standards. • The revised layout has now been tracked for an 11.4m refuse vehicle on drawing 15058-T-01 Revision P3 to demonstrate that it will be capable of manoeuvring through the development and turning around in accordance with the refuse strategy. • The footway on the spine road now leads into the shared spaces and also provides level access across the junctions without depositing pedestrians into the main carriageway • The amended shared space geometry no longer allows traffic passing plots 6 to 11 to travel tight against the parking spaces, creating an adequate buffer for emerging vehicles. <p>Consequently, I confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no further objection on behalf of the local highway authority... (conditions listed).</p>
<p>Climate Change Officer</p>	<p>1st comment:</p> <p>Apart from the EV charging strategy which is fine, there is no reference to sustainability and or the use of renewables in the D and A statement and there does not appear to be an energy statement.</p> <p>2nd comment:</p> <p>The applicant intends to exceed building regs by almost 15% largely via a fabric first approach.</p> <p>Only 10 of the houses will have solar pv - no reason is given. I would like to see all with solar and if not possible an explanation.</p> <p>It is proposed to heat the houses with gas. Members are very keen to use non-gas technologies such as ASHPs - can the applicant explain why these have not been selected?</p>

NHS (swale) Clinical Commissioning Group	<table border="1"> <thead> <tr> <th></th> <th>Total Chargeable units</th> <th>Total (See Appendix 1)</th> <th>Project</th> </tr> </thead> <tbody> <tr> <td>General Practice</td> <td>25</td> <td>£26,028</td> <td>Towards refurbishment, reconfiguration and/or extension of</td> </tr> </tbody> </table>				Total Chargeable units	Total (See Appendix 1)	Project	General Practice	25	£26,028	Towards refurbishment, reconfiguration and/or extension of
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<p>Clinical Chair: Dr Navin Kumta Accountable Officer: Wilf Williams</p> <hr/> <table border="1"> <tr> <td></td> <td></td> <td></td> <td>Grovehurst Surgery and/or Iwade Health Centre and/or Greenporch Medical Partnership within Sittingbourne PCN and/or Maidstone Road Rainham Surgery within Medway Rainham PCN and/or towards new general practice premises development in the area</td> </tr> </table>							Grovehurst Surgery and/or Iwade Health Centre and/or Greenporch Medical Partnership within Sittingbourne PCN and/or Maidstone Road Rainham Surgery within Medway Rainham PCN and/or towards new general practice premises development in the area				
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Green Space Manager	No response, but I am hoping to have these in time for the meeting and will update Members.										
UK Power Networks	No response.										
KCC Education	<p>I am writing on behalf of KCC Children, Young People and Education directorate and Newington Church of England Primary School (NCEPS) in relation to the planning application referred to above.</p> <p>We have been working with Fernham Homes since September 2020 to seek a permanent car parking and drop off area to ensure that the school has appropriate facilities to operate at the school's maximum capacity.</p> <p>At present, the school benefits from a temporary lease that expires in June 2022 with a temporary hardstanding area. Since having this area made available, NCEPS have reported a significant improvement in traffic flow outside the school in peak hours reducing idling cars and therefore improving air quality around the school, increased pedestrian safety owing to the reduction in vehicle/pedestrian conflict and a reduction in parent conflict which has, on occasions, required staff intervention.</p> <p>To maintain the benefit that these temporary facilities have brought to the school, a permanent solution is required both by way of hardstanding and ideally a long lease or freehold transfer of the area. In addition, NCEPS staff presently have to park off-site on the surrounding residential roads because there is inadequate parking provision on the constrained school site.</p> <p>NCEPS carried out a parent consultation in April 202. Of the 120 families who attend the school, 54% responded of which 86% confirmed that they would use the new facility if available. We understand that this survey information has been passed to the Council by Fernham Homes.</p>										

	<p>This is a unique opportunity to bring the facilities for NCEPS in line with current school requirements, the school cannot self-deliver these facilities within its existing landholding.</p> <p>Fernham Homes have already held a meeting with KCC Property to discuss the principle of a freehold transfer. Should the Council be minded to grant Planning Permission, we would ask that the Council liaises with the KCC Property team to ensure the relevant provisions are included in the Section 106 Agreement. I would be happy to provide contact details, if that is helpful.</p> <p>Please do not hesitate to contact me should you have any further questions.</p>
Kent Police	<p>1st Comment:</p> <p>We have reviewed this application in regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF). We have noticed on page 9 of the DAS the use of the principles of SBD within this application.</p> <p>The points below are site specific and designed to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety and to meet our and Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998. These points are in addition to those made within the DAS.</p> <p>With regard to this planning application we confirm that if the requirements listed below are formally secured by Planning Condition then we, on behalf of Kent Police have no objection to this application;</p> <ol style="list-style-type: none"> 1. We support the proposed boundary heights/ types, but if side entrance gates are proposed we recommend they be lockable from both sides and flush to the building line to optimize surveillance. 2. We require vehicle mitigation at the start/ end of each footpath to prevent unauthorized access for motorcycles, mopeds etc. This can be achieved via the installation of kissing gates and similar. 3. Corner Properties require physical defensible spaces to stop the parking areas and front gardens becoming desire lines thus causing nuisance and conflict and reducing privacy to side elevation windows. 4. New trees should help protect and enhance security without reducing the opportunity for surveillance or the effectiveness of lighting. Tall slender trees with a crown of above 2m rather than low crowned species are more suitable than “round shaped” trees with a low crown. New trees should not be planted within parking areas or too close to street lighting. Any hedges should be no higher than 1m, so that they do not obscure vulnerable areas. 5. If included within this application, cycle parking/storage must be well lit and with natural surveillance. We recommend solid secure or SBD recommended ground/ wall anchors for additional security. 6. Lighting. Please note, whilst we are not qualified lighting engineers, any lighting plan should be approved by a professional lighting engineer (e.g. a Member of the ILP), particularly where a lighting condition is imposed, to help avoid conflict and light pollution. we recommend that a suitable lighting policy is installed to ensure that the units and staff have safe access to and from the units and to help deflect criminality. External lighting to conform to min standard of BS5489-1:2020.

	<p>7. All external doorsets (a doorset is the door, fabrication, hinges, frame, installation and locks) including folding or sliding to meet PAS 24: 2016 UKAS certified standard, STS 201 or LPS 2081 Security Rating B+. Please Note, PAS 24: 2012 tested for ADQ (Building Regs) has been superseded and is not suitable for this development.</p> <p>8. Windows on the ground floor to meet PAS 24: 2016 UKAS certified standard, STS 204 Issue 6:2016, LPS 1175 Issue 8:2018 Security Rating 1/A1, STS 202 Issue 7:2016 Burglary Rating 1 or LPS 2081 Issue 1.1:2016 Security Rating A.</p> <p>If approved, site security is required for the construction phase. There is a duty for the principle contractor “to take reasonable steps to prevent access by unauthorised persons to the construction site” under the Construction (Design and Management) Regulations 2007. The site security should incorporate plant, machinery, supplies, tools and other vehicles and be site specific to geography and site requirements. We welcome a discussion with the applicant/agent about site specific designing out crime.</p> <p>If the points above are not addressed, they can affect the development and local policing.</p> <p>This information is provided by Kent Police DOCO’s and refers to situational crime prevention. This advice focuses on CPTED and Community Safety with regard to this specific planning application.</p> <p>2nd Comment: Further to our comments dated 09 September 2021; We have concerns that parking shown on the plan to the rear of plot 23 may create a vulnerable area with limited natural surveillance for both the resident and owners of any neighbouring properties. If a resident is unable to see their own vehicle from an active window (i.e. lounge or kitchen not bedroom, bathroom or hallway) they may park elsewhere such as on verges and pavements which can decrease safety and increase the chance of conflict between residents. To rectify this we would recommend the bay either be relocated or otherwise cited where use and trespass can be monitored effectively.</p> <p>Secondly we recommend the pick-up/ drop off parking area be lit to BS5489:2020 standards and secured with a gate when not in use. This is to prevent conflict and misuse and identify that this is for temporary use for parents only, especially if many of the future residents of the 25 homes have more than 2 vehicles.</p>
<p>Rural Planning</p>	<p>1st Comment:</p> <p>Further to your request for advice, I note that the site relates to an area of some 1.88 ha, mainly comprising part of a much larger arable field.</p> <p>The Planning Statement states that this land is not of the highest agricultural value, but as far as I am aware no evidence has been submitted to support that statement. In fact a relatively detailed 1976 Soil Survey report indicates that the land is likely to fall within the "Hamble" soil series, a fine sandy or silty loam, which is in the highest land capability class, and some of the best soil in the area.</p> <p>To be sure of the precise land grade, a detailed land classification survey and report would be needed, however as matters stand the loss of "best and most versatile" agricultural land here should be regarded as a potentially adverse effect of the scheme.</p>

	<p>Whilst the area proposed is relatively small, I note the Parish Council's concern at the developers' expressed views as to further potential development on adjacent land.</p> <p>The loss of agricultural land clearly has to be balanced against other Planning considerations, but please let me know if I can be of any further assistance.</p> <p>2nd Comment:</p> <p>Thank you for your email regarding amendments to the above scheme. There does not appear to be any further documentation on your website relevant to the comments I made in my email of 15 October 2021 regarding agricultural land quality; in particular:</p> <p><i>"The Planning Statement states that this land is not of the highest agricultural value, but as far as I am aware no evidence has been submitted to support that statement".</i></p> <p><i>"In fact a relatively detailed 1976 Soil Survey report indicates that the land is likely to fall within the "Hamble" soil series, a fine sandy or silty loam, which is in the highest land capability class, and some of the best soil in the area".</i></p> <p><i>"To be sure of the precise land grade, a detailed land classification survey and report would be needed, however as matters stand the loss of "best and most versatile" agricultural land here should be regarded as a potentially adverse effect of the scheme".</i></p>
KCC Archaeology	No response, but I hope to have these for the meeting and will update Members..

7. BACKGROUND PAPERS AND PLANS

- Site Location Plan – 4176|p001,
- Existing Site Plan – 4176|p002,
- Existing Site Sections – 4176|p201,
- Entrance Landscape Sketch 1594/001 Rev F,
- Proposed Access – 15058-H-01 P7,
- Vehicle Swept Path Analysis 11.4m Refuse – 15058-T-01 P3,
- Vehicle Swept Path Analysis Pantehnicon – 15058-T-02 P2,
- Vehicle Swept Path Analysis Fire Tender – 15058-T-03 P2,
- Play Strategy – 1594/003 Rev A,
- Landscape Masterplan – 1594/002 Rev D,
- Proposed Site Plan – 4176/p003 (Aug 2022),
- Floor Plans – plot 1 – 4176|p100,
- Floor Plans – plot 2 – 4176|p100,
- Floor Plans – plot 11&12 – 4176|p100,
- Floor Plans – plot 13&20 – 4176|p100,
- Floor Plans – plot 14 – 4176|p100,
- Floor Plans – plots 17&18 – 4176|p100,
- Floor Plans – plot 19 – 4176|p100,
- Floor Plans – plot 21 – 4176|p100 (Aug 2022),

- Floor Plans – plot 22 – 4176|p100,
- Floor Plans – plot 23 – 25 – 4176|p100,
- Floor Plans – plot 3&4 – 4176|p100,
- Floor Plans – plot 5 – 4176|p100,
- Floor Plans – plot 6&7, 15&16 – 4176|p100,
- Floor Plans – plots 8 – 10 – 4176|p100,
- Elevations – plot 1 – 4176|p101,
- Elevations – plot 11&12 – 4176|p101,
- Elevations – plot 13&20 – 4176|p101,
- Elevations – plot 14 – 4176|p101,
- Elevations – plots 17&18 – 4176|p101,
- Elevations – plot 19 – 4176|p101,
- Elevations – plot 2 – 4176|p101,
- Elevations – plot 21 – 4176|p101,
- Elevations – plot 22 – 4176|p101,
- Elevations – plot 23 – 25 – 4176|p101,
- Elevations – plot 3&4 – 4176|p101,
- Elevations – plot 5 – 4176|p101,
- Elevations – plot 6&7, 15&16 – 4176|p101,
- Elevations – plots 8 – 10 – 4176|p101,
- Boundary Treatment Strategy Plan – 4176/sp01C,
- Tenure Strategy Plan – 4176/sp02,
- EV Charging & Parking Strategy Plan – 4176/sp03 (Aug 2022),
- Refuse Strategy Plan – 4176/sp04 (Aug 2022),
- Fire Strategy Plan – 4176/sp05,
- Indicative Adoption Plan – 4176/sp06)_b Sep 2022,
- Design and Access Statement,
- Affordable Housing Summary Statement,
- Arboricultural Impact Assessment,
- Flood Risk Assessment, part 1,
- Flood Risk Assessment, part 2,
- Flood Risk Assessment, part 3,
- Habitat Regulation Assessments,
- Heritage Desk Based Assessment, part 1,
- Heritage Desk Based Assessment, part 2,
- Heritage Desk Based Assessment, part 3,
- Heritage Desk Based Assessment, part 4,
- Interim Ecological Assessment,
- Landscape and Visual Assessment,
- Landscape and Visual Assessment Illustrative Material,
- Transport Statement,
- Air Quality Assessment,
- 3D Visual 01,
- 3D Visual 02,
- Minerals Safeguarding,
- Planning Statement,
- Biodiversity Net Gain Summary,
- Census Data and Development Flows,

- Energy Strategy,
- GWF Letter (Agricultural unit),
- Heritage Response,
- Transport Technical Note.

8. APPRAISAL

8.1 Principle of Development

- 8.2 The application site is located just outside of the built-up area boundary of the settlement of Newington. The site lies approximately 35m from the western built-up area boundary to the northern end of Newington. Policy ST 3 of the Local Planning Authority sets out the Swale Settlement Strategy. The policy indicates that the primary focus for development is Sittingbourne, with Faversham and Sheerness forming secondary areas for growth.
- 8.3 Rural Local Services Centres are identified by policy ST 3 as a tertiary focuses for growth. Newington forms one of the Rural Local Service Centres and is therefore relatively high on the settlement strategy. As the site lies outside of the built-up area boundary it is considered to be located in the open countryside.
- 8.4 The application site is considered green field, while an existing car park is located on part of the site it does not benefit from planning consent. The proposal is located on agricultural land and is therefore not previously developed. The parcel of land is part of a wider area used for arable crop rotation.
- 8.5 Policy DM 31 of Swale Local Plan indicates that development on agricultural land will only be permitted where there is an overriding need that cannot be met on land within the built-up area boundaries. The policy indicates that development on Best and Most Versatile agricultural land (specifically Grade 1, 2, and 3a which is referred to as best and most versatile land – BMV) will not be permitted unless three criteria have been met.
- 8.6 As stated above the site is utilised for agricultural purposes. The land in question comprises approximately 1.88 hectares of arable field. The Rural Planning Consultant commented on the proposal. While the Planning Statement indicates that the land is not of the highest quality BMV, no substantive evidence has been provided to substantiate this matter.
- 8.7 Based on the relatively detailed 1976 Soil Survey it is indicated that the land is likely to fall within the “Hamble” soil series. The soil identified by the soil is a fine sandy or silty loam which is of the highest quality in the area. The consultant considered that without evidence to the contrary the loss of the BMV land as a negative impact.
- 8.8 It was noted that third parties had raised concerns regarding further potential development on adjacent land. Such statements cannot be considered as planning applications have to be assessed on their own merits.
- 8.9 Swale Borough Council currently has a 4.8 Housing Land Supply (HLS) which demonstrates an identified housing need. The Local Plan is also more than 5 years old.

Currently insufficient allocations exist to meet the housing demand. As such an assessment of the three criteria of policy DM 31 will be undertaken. The three criteria are as follows:

- 8.10 1. The site is allocated for development by the Local Plan; or

The site is not allocated for development under the Local Plan. The first criteria has not therefore been met. It falls to the further two criteria to consider the land for residential development.

- 8.11 2. There is no alternative site on land of a lower grade than 3a or that use of land of lower grade would significantly and demonstrably work against the achievement of sustainable development work against the achievement of sustainable development; and

The council cannot currently demonstrate a 5-year housing land supply. The local plan is also out of date. The allocation of land for housing is insufficient. A high proportion of the Borough is subject to BMV land. Currently windfall schemes are utilised as a means of providing housing to address the identified need in the Borough.

The site is located in reasonable proximity to Newington which is one of the higher settlements within Swale's settlement strategy. Newington contains a degree of social amenities, public transport and other infrastructure. The site is placed in an area which is not totally removed from existing infrastructure and the sustainability of the scheme will be further considered below.

- 8.12 3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land.

- 8.13 *The agent submitted a statement in regard to the overall agricultural unit. The statement identifies that site forms part of a wider 1,252Ha landholding which is utilised for a diverse farming operation. Of this land 945.44 Ha is arable, 118.96 Ha is grass, and 87.74 Ha are coppice woodland. The statement identifies the loss of the site comprising 1.88 Ha would not have a negative effect on the farming operation in regard to viability or operationally. The loss of land would equate to roughly 0.16% of the agricultural holding.*

Given the wider scale of the agricultural holding it is not considered that the land loss would undermine the viability of the holding. The agent did put forward further benefits to the scheme including monetary re-investment in the wider agricultural unit including to biodiversity and net zero targets following DEFRA's Spring 25-year Environment Plan goals. These benefits will not be included in the balance as they are located outside of the red line boundary.

The proposal would be considered to retain the viability of the agricultural holding. The proposal would include an access to the remaining land which would support the continued farming of the land adjacent to the site. Further, there is no evidence to suggest that further land would be lost as a result of consideration of this application.

- 8.14 Paragraphs 11 and 73 of the National Planning Policy Framework (NPPF) requires Local Planning Authorities to meet its full, objectively assessed needs (OAN) for housing and other uses. The Council should annually update a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional 5% buffer.
- 8.15 The latest published position within the 'Statement of Housing Land Supply 2020/21 Swale Borough Council June 2022', identifies that the Council is meeting 105% of its requirement. As a result, the Council has a 4.8 Housing Land Supply. As a result, the Council cannot demonstrate a 5 year supply a presumption in favour of sustainable development must be applied under paragraph 11 of the NPPF.
- 8.16 Paragraph 11 of the NPPF states that in making decisions planning authorities should apply a presumption in favour of sustainable development. In regard to decision meeting this means:
- '(c) approving development proposals that accord with an up-to-date development plan without delay; or*
- (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date⁸, granting permission unless:*
- (i) the application of policies in this Framework that protect areas of particular importance provides a clear reason for refusing the development proposed⁷; or*
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
- 8.17 Footnote 7 of the NPPF identifies areas defined as 'areas of particular importance'. The application site is not bound by any constraint which would place the site in an 'area of particular importance'. The site would therefore fall to be considered under, Paragraph 11(d)(ii). The proposal will therefore be assessed as to if the proposal represents sustainable development.
- 8.18 Paragraph 8 of the National Planning Policy Framework (2021) states that:
- 'Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).'*
- 8.19 (a) **an economic objective** – *to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.*
- 8.20 The proposed development would consist of residential development and would not incorporate direct commercial/economic benefits.

8.21 The provision of residential housing does generate passive economic benefits as additional population can see additional spending in local centres. Paragraph 79 of the National Planning Policy Framework states that:

‘To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby’.

8.22 The application site is located in a rural environment and is located just outside of the boundary to the settlement of Newington. The relationship and works to secure pedestrian links to the centre of Newington could be seen as providing a contribution to the vitality of a rural community.

8.23 The development would have some short-term benefits related to the employment generated throughout the construction process. The provision of jobs and re-quit spending in the locality as a result of development would see short term economic benefit.

8.24 The proposal would see the loss of a small section of field used previously for agricultural purposes, with a small existing section used for parking. The loss is not considered to undermine the viability of the agricultural unit.

8.25 The proposal would not have a direct economic impact through the creation of an employment unit but some moderate weight would be attached to the economic benefits of the economic role.

8.26 (b) **a social objective** - *to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and*

8.27 The proposal would provide additional housing to the Borough. As the council cannot demonstrate a 5-year supply, a buffer would be required on top of the identified need. As such there is an identified shortage of housing both in market and affordable units. The provision of 15 market houses and 10 on-site affordable units would contribute to the provision of housing for present and future generations.

8.28 The applicant has provided a number of details in regard to the provision of affordable units and would provide a full 40% on-site provision (10 units). In considering the affordability ratio in the south-east, for which house prices far outweigh average earnings, the provision of on-site affordable units would provide a tangible social benefit. There is a need for affordable units across the Borough and this includes Newington.

8.29 The application site is within a 10minute walk from Newington train station and shops and services along Newington High Street. The proposal would see the widening of School Lane to allow 2 vehicles to pass one another without overrunning the verges and the provision of a 1.8m wide footpath southern side of School Lane, which crosses to a

1.5m footway to the northern side. A public footpath would connect from Breach Lane into Wickham Close, Newington, which is to the south of the train line.

8.30 The Manual for Streets guidance indicates that:

8.31 *'Walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes' (up to about 800m) walking distance of residential areas which residents may access comfortably on foot...Mfs encourages a reduction in the need to travel by car through the creation of mixed-use neighbourhoods with interconnected street patterns, where daily need are within walking distance of most residents'.*

8.32 The proposal would also provide a dedicated drop off and pick up location for the Newington Church of England School. The car park would have a direct access into the school preventing drop off parking along School Lane and the idling of cars. The car park at the school currently doesn't meet SBC parking standards and this area would provide a benefit to the school.

8.33 The access to the wider countryside and to services would be within sustainable walking distance. The proposal would see a ribbon of green space around the western and southern boundary with natural play equipment, seating, and other tangible benefits. The proposal would provide a degree of support for the communities' health, social, and cultural wellbeing.

8.34 The proposal would be considered to provide significant social benefits in considering the site's overall social objectives.

8.35 (c) **an environmental objective** – *to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

8.36 Policy ST 3 of the Swale Local Plan indicates that development will not be permitted on sites which are in the open countryside and outside of the defined built-up area. The policy does state such development would only be allowed if supported by national policy and would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.

8.37 The application site is located just outside of the built-up area boundary of Newington. The site is not located within a designated landscape area either nationally or locally. However, the site is located within an open field which does sit outside of the defined boundary of the built-up area of Newington.

8.38 The impact to the landscape will be considered below. However, it is noted that the proposal would have in the short term and impact in regard to the views towards the village when viewed from the west. However, given the scale and siting of the development could be subject to landscape screening.

8.39 The undulation of the landscape does mean the development would not sit on an elevated position in relation to Newington. Gains would be seen with improved

biodiversity on site and would be located such that it sits adjacent to the boundary of Newington.

8.40 As above, the proposal would be located within the recommended 10-minute walking distance to local services and amenities including food shops and pharmacies. The site is also within reasonable walking distance to the railway station which would provide wider access to other facilities in Kent. The proposal would also provide improved pedestrian links in the area. The location and improved services would reduce the overall reliance on the car to meet day to day needs.

8.41 While some bus and rail services may be considered limited by third parties, the services would be available within walkable distances. The presence of these service for a rural area does increase the sustainability of the site as the settlement does benefit from transport services. As such, the site is not wholly isolated from existing infrastructure.

8.42 The proposal would be considered to have a moderate weight in meeting an environmental objective.

8.43 **Landscape/Visual Impact**

8.44 Policy CP 7 of the Local Plan states that the Council will work with partners and developers to ensure the protection, enhancement and delivery, as appropriate, of the Swale natural assets and green infrastructure network. These include strengthening green infrastructure and biodiversity.

8.45 Policy DM 24 of the Local Plan states that the value, character, amenity and tranquillity of the Boroughs landscapes will be protected, enhanced, and, where appropriate, managed. The policy is split into parts with part B applying to this site.

8.46 The application site is not located within either a national, Kent or local land designation.

8.47 Part B of policy DM 24 relates to non-designated landscapes. It states that non-designated landscapes will be protected and enhanced and planning permission will be granted subject to; 1. The minimisation and mitigation of adverse landscape impacts, 2. When significant adverse impacts remain, that the social and or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.

8.48 In accord with the Swale Landscape Character and Biodiversity Appraisal 2011 the site is located within the Upchurch and Lower Halstow Fruit Belt landscape designation. The site sits on the edge of this designation due to its proximity to the built area of Newington.

8.49 The key characteristics of the area are detailed as being small to medium-scale rural landscape with a strong sense of enclosure, small, nucleated villages with historic centres and modern urban expansion on periphery, undulating landscape with occasional long views to north and south, fragmented structure of mature hedgerows and shelterbelts surrounding orchards, pasture and arable fields.

8.50 The landscape condition and sensitivity of the landscape is moderate. The sensitivity identifies that structure is provided by the hedgerows and shelterbelts, while fragmented,

assists in screening views. The undulating topography is also considered to assist in screening the areas of settlement. The area is moderately visually sensitive.

- 8.51 The application site forms a part of a wider field pattern which extends to the west of the Newington. The eastern boundary of the site is formed of a strong tree line which separates the School from the field. The site is not however currently separated by a natural boundary. The site would therefore be visible from views from the west and south.
- 8.52 The field due to the scale and undulating landscape has some typical elements of the Kentish countryside. The field boundaries are strong and do create a sense of enclosure when the site is viewed from public roads. However, the field itself has a more open character.
- 8.53 The development would sit against the strong tree line which sits adjacent to the School which currently forms a strong boundary between the site and containment of Newington. While the proposal would sit outside of this boundary its scale is not disproportionate to overall urban confines of Newington and the existing urban sprawl.
- 8.54 Screening has been proposed along the field boundary which would take a period of time to establish. However, this would mute the overall impact of the development to the wider rural views. A landscape scheme would be required via condition to ensure trees of a specific standard are secured. The additional benefit of additional trees and vegetation would see ecological gains.
- 8.55 The proposal would have more immediate impact rather than longer wider implications to landscape views. The undulation of the natural topography of the area would be retained and would work to aid in reducing the overall view/impact of the proposal.
- 8.56 To the west of the application site runs a Public Right of Way (namely ZR38, which is located a minimum of 267 metres from the application site) which sits at a higher level to the application site and runs in a west/east trajectory towards Newington. The Public Right of Way would provide a view of the development site.
- 8.57 The views from the Public Right of Way would result in some harm in regard to visual impact as highlighted by Huskinson Brown. However, the elevated position of the right of way does place the development at a lower level to the natural rise and fall of landscape which would mean the proposal would not appear as a significantly prominent addition.
- 8.58 Comments from Huskinson Brown also highlight concerns relating to the setting of the Church tower. While this is addressed below against heritage assessment. The development is limited to 25 units and this proportionately would leave a significant portion of the field. The rural setting would still be clearly evident when traversing the Public Right of Way and from other public settings such as the transitory views from the railway.
- 8.59 Policy DM 26 of the local plan seeks to ensure that development would not physically or as a result of traffic levels harm the character of rural lanes. The lane to the north of the application site is a rural lane as identified by policy DM 26.

- 8.60 The proposal, as below, is not considered to result in a severe impact to the local highway network. Due to the narrow nature of the lane, it is likely that vehicles would travel to the east along School Lane. The traffic levels would not be considered so significant that the tranquillity of the lane would be significantly altered.
- 8.61 The developer has provided a section and a plan of the works to take place along the rural lane. A large degree of the existing vegetation would be retained along the road and then reinforced with native trees. Some section of the existing vegetation would be removed to allow for visibility splays. A hedge would be provided set back from the road to ensure vegetation is retained along the road.
- 8.62 The boundary adjacent to the lane would include post and rail fencing to reinforce the sense of ruralism. The character of the lane would be considered conserved and reinforced with additional planning.
- 8.63 The site would provide the opportunity for wide tree cover. Detailed landscaping plans have been provided and adjustments to the proposed layout were undertaken to ensure that residential pressure to reduce tree cover is reduced. Any approval would be conditioned to ensure that the proposal would retain existing tree coverage.
- 8.64 The proposal would be considered to have some impact to the existing landscape, however given that the site sits outside of the designated landscapes and the mitigation and overall gains the impact is considered acceptable.
- 8.65 **Design/Layout**
- 8.66 Chapter 12 of the NPPF sets out the overarching principles for achieving well-designed places. Paragraph 126 of the NPPF sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.
- 8.67 Paragraph 130 of the National Planning Policy Framework lists the criteria that developments should achieve. Paragraph 134 directs refusal of poorly designed development that fails to reflect local design policies and guidance. The paragraph further states that significant weight should be given to developments that do reflect local design policies and relevant guidance and/or outstanding or innovative designs which promote a high level of sustainability.
- 8.68 Policy CP 4 of the Local Plan sets out the requirements for good design and necessitates that all development proposals will be of a high-quality design that is appropriate to its surroundings. The policy goes on to list the ways in which this shall be achieved.
- 8.69 Policy DM 14 of the Local Plan sets out a number of General Development Criteria for development proposals. These include a number of requirements that proposals be both well sited and of a scale, design, and appearance detail that is sympathetic and appropriate to the location. The criteria also require an integrated landscape strategy that will achieve a high landscaping scheme.
- 8.70 The proposed development would see the provision of a car park to be utilised by Newington Church of England School would be located to the east of the application

site. The car park would sit in a linear form, soft landscaping treatments would be provided to around the car park and some trees would be located along side to break up the use of hard surfacing. The degree of landscaping and the linear form would ensure the car park would sit comfortably within the context of the site.

- 8.71 The proposal would see a main spine road utilised as the main access point to the development. Three cul-de-sacs would be located off the spine road. The cul-de-sacs would be connected by a pedestrian pathway to allow pedestrian movement across the site. The use of permitter blocks can provide continuous access, however, in a such a rural area this would increase the degree of hardstanding and placements of cars which would work against a sense of rural tranquillity and reduce the degree of walkable pedestrian only areas. A condition could be secured by Members to ensure rights for pedestrians to access this area is secured.
- 8.72 The development has been designed to ensure that the exposure of the rear elevations to the site are kept to the minimum. Some exposure will be seen to units 24 and 25 for which the rear elevations face the car park. These have been well detailed to ensure the faced has interest and provide a degree of overlooking to the car park.
- 8.73 Corner turner units and details side elevations have also been used across the site to ensure overlooking of public spaces and provide interest along the public realm. Enclosure details would ensure brick walls facing the public realm and detailing to the rear of properties would ensure units with public facing rear elevations would retain sufficient detailing.
- 8.74 A character study of the area was undertaken as part of the proposal. The assessment did identify a number of building forms in the area. The assessment identifies a number of key characteristics of the area include facing brickwork (painted white), vertical tile hanging, and render. The assessment also identified an emphasis on well proportioned wide fronted dwellings, a variety of roof forms with low eaves, secondary gables and dormer windows.
- 8.75 The properties in the wider area do vary in form and the architecture derives interest in the street scenes. The materiality and fabric are however reflective of Kent which does see brick and tile hanging used constantly across the county. The proposals position behind the school would mean the dwellings would not continue a street scene but create an individual pocket of development.
- 8.76 The proposed dwellings would have a traditional bulk and massing. The properties would be two storeys and comprised of a variety of tenures including terraces, semi-detached and detached. The units market mix would see predominately 4- and 3-bedroom units which is a departure from the mix guidance under policy CP 3. However, when looking inclusive of the affordable units a good provision of 2-, 3- and 4-bedroom units has been provided.
- 8.77 The proposal would reflect the wider design and materiality of the local area. The use of tile hanging, and brickwork is typical of the Kentish countryside and indeed Newington. A condition would secure details of the proposed materials in order to ensure the quality of the bricks and tiles.

- 8.78 The dwellings would contain pitched roofs which would be broken up by gable detailing to a number of the units. Porches, brick banding, window coins, and proportionate openings (windows) would draw interest to the elevations. The properties would be considered to reflect the local architectural vernacular.
- 8.79 A varied use of hard surfaces would be applied across the site including block paving and tarmac. The materials would be used to differentiate shared spaces. The use of block paving would break up the use of tarmac. Further, details of the surfaces would be secured by condition to ensure high quality fabric across the site.
- 8.80 To ensure the site retained a sufficient degree of rural character enclosures would need to reflect the environment the site is located within. Details of means of enclosure around the site would be conditioned. Post and rail fencing and landscaping would be required to ensure the character of the area is conserved as expected with rural development.
- 8.81 The proposal would provide a degree of open space around the peripheral parts of the site in order to allow landscaping and public areas within the site. The proposal has included natural play equipment within the open space to provide enhanced interaction with the space. SUDs ponds and wildlife areas would also add to the variety of the landscaping which is lacking on site, with the exception of the north and eastern boundaries.
- 8.82 The proposal is considered to provide, subject to condition, a high level of design and layout.
- 8.83 **Heritage**
- 8.84 Policy CP 8 of the Local Plan seeks to ensure that developments will sustain and enhance the significance of designated and non-designated heritage assets. Policy DM 33 of the Local Plan states that development must setting of the listed building and its special/architectural interest are preserved.
- 8.85 Policy DM 33 of the Local Plan states that development affecting the setting of, or views into and out of a Conservation Area, will preserve or enhance all features that contribute positively to the area's special character or appearance.
- 8.86 Paragraph 194 of the National Planning Policy Framework (NPPF) states that:

'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contributions made by their setting. The level of details should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance...'

- 8.87 Paragraph 195 of the National Planning Policy Framework states that:

'Local authorities should identify and assess the particular significance of any heritage asset that maybe affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact

of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal'.

- 8.88 Paragraph 199 of the National Planning Policy Framework states that in considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). The weight is irrespective of whether the harm is substantial, total loss, less than substantial.
- 8.89 The applicant has provided a Heritage Statement within the application pack. The assessment identifies the relevant assets and provides the relevant descriptions of the assets in accord with the requirements of the National Planning Policy Framework. The application site is not subject to any designated heritage buildings and is not within the Newington Church Conservation Area. The application site is located approximately 170m from the Newington Church Conservation Area, which is located to the east of the application site.
- 8.90 The Newington Church Conservation Area is mainly focused on the Grade I listed Church, St Mary's. The significance of the Conservation Area is derived from it forming the historic core of the Parish of Newington, with the central focal point being the Church. As identified by the Conservation Officer Church Farmhouse and the Oast House, which are Grade II listed buildings, contribute to the special character and appearance of the Conservation Area through the group value associated with the Church.
- 8.91 An additional listed building, the Parsonage House is also located close to the application site but outside of the Conservation Area. Although the Conservation officer notes that its setting is dominated by existing housing.
- 8.92 The listed buildings, as a group, contribute to the character of the Conservation Area due to their associative relationship. The Conservation Officer considers the functional and aesthetic relationship with each other and the alignment with Church Road and Iwade Road add to the overall significance. The associations are considered to have positive contributions to the significance of these buildings, in providing a context in which an observer can appreciate the layout and hierarchy of the earlier settlement.
- 8.93 In assessing the Conservation Officers comments in relation to the Conservation Area, the listed buildings group association provide a visual understanding of the hierarchy of the historic core of the village. Indeed, the church and its associated buildings would have formed an important centre to the village. The area covered by the Conservation includes the Church, a few houses and the wider fields which extend to the north and north-east.
- 8.94 The value of the Conservation Area is therefore primarily seen within its centre and between immediate views of the group of listed buildings. The rural setting of the Church is important hence the inclusion, within the Conservation Area, of the fields to the north of the Church.
- 8.95 While the Conservation Officer's observation in relation to the rural setting of the Church is noted, the value of the rural setting has already been somewhat eroded by the post war development along Church Road and extending along School Lane. The

development appears post war and significantly densified the approach along Church Lane.

- 8.96 The proposed development would be located some distance to the west of the Church and the associated Conservation Area. Further, the significant tree cover along the eastern boundary of the site would mean the development from within the Conservation Area would be limited. The development would not disrupt the group relationship of the listed buildings and the association with the Church.
- 8.97 The main area of concern relates to the setting of the Grade I listed Church. The Officer noted that the development was some distance from the church. However, identified that the Church is located on raised ground, which has the effect of making the tower a visible feature from the surrounding area. The tower is considered a key and notable feature in the wider landscape for many centuries.
- 8.98 The views of the Church tower can be derived from the public footpath which is located to the west of the application site which runs across the extent of the field in a west to east trajectory. The view from the field of the tower is considered, by the Conservation Officer, to result in an intervisibility between the Church and the application site. These are considered to contribute to the significance of the Church derived from its rural setting.
- 8.99 The Officer has considered 'less than substantial harm' would derive from the proposal erosion and urbanisation of the field and reduce the openness of the site, which in turn contributes to the rural setting of the Church. The identification that this harm is moderate on the scale of 'less than substantial' is made by the Officer.
- 8.100 The proposal would introduce built form into the north-east corner of the field, and views of the development would be derived from the public footpath (for which the tower can be observed). However, it should be noted other residential development can be observed from the footpath and that due to the footpath's separation from the site and the village the views would still include the larger extent of the field.
- 8.101 The development would consist of 25 units and would be set with landscaped boundaries introducing tree cover and grassland. The expansion is not so significant as to be disproportionate to the twentieth and twenty-first century development which already forms part of the setting to the Church, Conservation Area, and listed buildings. The views would not therefore remove the semi-rural setting of the area given the wider extent of the field and the existing fields which surround the immediate context of the Church from within the Conservation Area.
- 8.102 The Heritage Statement submitted with the application considers the introduction of residential development in this section of the field broadly in line with the existing character and setting of the built heritage assets. It further concludes that the proposal aligns with much of the existing setting and contains measures to retain the semi-rural character. The report concludes no harm to the significance of the built heritage.
- 8.103 Paragraph 202 of the National Planning Policy Framework states that:

'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.

8.104 The St Mary's Church is a Grade I listed building and in accord with the framework is afforded great weight in consideration. Whilst a degree of concern with identifying the proposal as harmful to the setting of the Listed Building for completeness the impact versus public benefits will be considered in the balance. The Officer has made comment on the public benefits. However, this is a matter for committee to consider as the benefits do not pertain to heritage matters. The balance will be considered later in this report.

8.105 Residential Amenity

8.106 Existing residential development

8.107 Policy DM 14 of the Local Plan provided general development criteria and requires that development does not result in significant harm to amenity. Paragraph 130 of the NPPF states that decisions should ensure high standards of amenity for existing and future users.

8.108 As a general rule, a distance of 21m is considered sufficient to prevent a significant loss of amenity relating to daylight/sunlight, visual intrusion to outlook and privacy. The closest existing residential development is located to the north-east of the site in the new development leading from School Lane and those dwellings extending to the east of the school.

8.109 No residential dwellings are located in close proximity to the northern, southern, and western boundaries. The impact would mostly be felt to the eastern boundary. However, a significant tree belt is located along the eastern boundary of the site which would be retained. The distance between the closets proposed residential unit and an existing property in Newington is sufficient to prevent a significant loss of daylight, sunlight, or privacy to existing units.

8.110 Views are not protected under planning legislation. The separation distance between the proposal would be sufficient to prevent the development, which would be limited to two storeys, resulting in visual intrusion to outlook. Overall, the proposal would not result in a loss of amenity pertaining to daylight/sunlight, outlook, or privacy.

8.111 The proposal would see an uplift in vehicle movements in regard to the residential development. However, the upturn for 25 units would not be considered so significant as to result in unacceptable noise implications to local residents. Further, the proposal would see a dedicated drop off and pick up location associated with the school which would relieve pressure on pausing and idling vehicles along School Lane during the working week.

8.112 The Environmental Health Officer has commented on the proposal and did not consider that a noise survey was required. The buffer present by the trees and the local of the school to house would mean noise levels are unlikely to reach an unacceptable level.

8.113 The construction period of a development is not material to the acceptability of a proposal. However, details of dust management, construction hours, and construction

management plan could be secured via condition to ensure that development mitigates impacts during a construction period.

8.114 *Proposed residential development*

8.115 The proposed units would have dual aspect views which would allow sufficient outlook and allow natural light to filter into the dwellings. Revised plans to align the dwellings to the eastern boundary have ensure limited impact from the adjacent tree belt to rear amenity spaces.

8.116 The dwellings have all been plotted to ensure external access to the front of properties to ensure that waste and refuse can be collected without the requirement to bring waste through the internal floor space.

8.117 The layout has been designed to achieve rear to rear alignment that would allow 21m which is the recommended distance to ensure sufficient privacy. In the places that a closer relationship exists the orientation of the properties reduces the overall overlooking with 11m achieved between side to rear alignment.

8.118 The proposed properties would all benefit from sufficient residential amenity space. The site is also located in such a position that access to the countryside is readily available. The proposed access would include an extension of the footpath to School Lane allowing wider accessibility to Newington. The permeability of the site for pedestrians would also allow for access around the site which would be well landscaped.

8.119 The proposed car park would result in vehicle movements within the site. However, these movements would be isolated to specific times of the week and day and would not be considered overtly harmful to amenity levels. Further, conditions to restrict lighting to the car park to bollard lighting could be applied by members.

8.120 Overall, the proposal is considered to preserve existing amenity levels and would result in an acceptable level of amenity for future occupiers. The proposal is considered compliant with local and national policy in regard to amenity.

8.121 **Highways**

8.122 Policy DM 6 of the Local Plan seeks to manage transport demand and impact. Policy DM 7 of the Local Plan provides guidance on parking standards alongside the Swale Borough Council Parking Standards SPD.

8.123 Paragraph 111 of the National Planning Policy Framework states that:

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

8.124 The revised Transport Statement indicates that the proposal would generate 12 two-way movements (4 arrivals and 8 departures) on Church Lane in the AM peak hour. In the peak PM hours 10 two-way movements (7 arrivals and 3 departures) would occur. The Highways Officer note that 1 additional movement every 5 minutes on average would

be considered to have a negligible impact on the operation of Church Lane in the context of existing traffic flows (School drop off).

8.125 Due to the proposals impact to the Key Street roundabout on the AM and PM peak hours, which would generate 14 vehicle movements. As such, Highways have identified a financial contribution of £16, 800.00 if the development would be approved. The amount was later clarified to require a contribution of £34, 056.96 due to the additional traffic volume that would adjoin the Key Street roundabout. The amount is costed at £2, 432.64 per movement.

8.126 The Highways Officer commented that the proposal would generate an additional 20 parking spaces and drop off area for the school. The assessment was based on the existing informal parking area. However, the existing parking area is not subject to planning permission and therefor the gain would equate to 40 additional spaces.

8.127 The Highways Officer considers that the circulation space that the proposal would generate would remove parking demand and pressure from School Lane. The provision of this this space would be considered to an improvement to the current situation on School Lane.

8.128 The proposal would also secure additional improvements to School Lane, these would include the widening of School Lane between the school and the proposed access to allow two vehicles to pass one another without overrunning the verges. The addition of a 1.8m wide footway on the southern side of School Lane, and a crossing to a 1.5m wide footway on the northern side of School Lane. These improvements would allow pedestrians to walk along School Lane separated from vehicular traffic. This would allow continuous pedestrian access into Newington.

8.129 The alterations to School Lane would also include the introduction of waiting restrictions to prevent parents parking on the widened section of road. Further, the proposal would seek to extend the 30mph speed limit. These would be secured through Traffic Regulation Orders, which would need to be submitted by the developer to Kent County Council.

8.130 The proposal would allow for refuse vehicles to traverse through the site and exiting in a forward gear. Amendments were also provided to ensure that traffic would be able to pass units 6 to 11 such that a sufficient buffer would exist to allow vehicles to emerge safely.

8.131 *Parking*

8.132 The Swale Borough Council Parking SPD states that for development in a rural area 0.2 visitor parking spaces should be provided per unit. The proposal would generate a need for 5 visitor parking spaces. The proposal would exceed the required amount in providing 6 visitor spaces. The spaces would be evenly distributed across the site to allow access for all units. This would alleviate pressure for parking on pavements.

8.133 Appendix A of the Swale Borough Council Parking Standards provides a table of recommended residential car parking standards. The application site would be

considered to be located in a rural location. 'Recommended' standards apply to rural locations and 'recommended' is defined by the SPD as follows:

'...In terms of allocation, it is recommended that for 1 to 2 bed flats in all locations, an unallocated provision is made, to maximise flexibility. For 1 and 2 bed houses and above, some allocation of spaces is recommended; however it is not necessary to allocate all spaces. For example, for four bed units in rural locations, two spaces could be provided on-plot with a third placed on-street to allow for flexibility within the standard and for "opportunity parking" to be taken advantage of, acknowledging that different households will have different parking requirements and that to allocate all spaces will reduce flexibility.'

8.134 Further to the above footnote 1 of the recommended standards states:

'Car parking standards is for guidance and a lower provision should be considered for areas with good accessibility by sustainable transport modes and/or where effective mitigation measures are in place or proposed.'

8.135 The proposed development would see a number of the units complying with the parking guidance. Units 1, 2, 3, 4, 13, 14, 19, 20, 21, and 22 would meet or exceed the guidance of the SPD in regard to parking provision. The rest of the units would have two parking spaces, and some would have a garage. Units 9 and 10 would have one space each, these units would be provided to the housing association.

8.136 KCC Highways are satisfied with the degree of parking provided. Visitor spaces exceed the requirements and would allow for parking on site if required. The parking provides a balance between reducing the degree of hardstanding in the rural location and meeting parking guidance.

8.137 Kent Police provided some commentary on the parking spaces of unit 23. The spaces were not considered to be sufficiently overlooked. However, the proposal was adapted to ensure the development would not result in pressure to the tree line located to the eastern boundary. The first-floor windows would have a view of these spaces and it is considered acceptable. The lighting of the car park would be subject to condition, ensuring the lighting does not add to light pollution and impact protected species i.e. bats.

8.138 The proposal would also provide a car park for Newington Church of England School. The Swale Parking SPD recommended 1 parking space per staff member plus 10% for primary Schools. Based on current staff numbers a requirement for 38 parking spaces and the School has an under provision.

8.139 The proposal would increase the degree of staff parking and provide a dedicated drop off zone for parents and students. The benefits of this would be improvement to the traffic flows along School Lane/Church Lane. KCC Education have responded to the preproposal indicating the current temporary parking area has seen improvements in traffic flows in peak hours and a reduction in idling cars in accord with the School.

8.140 KCC Highways have commented that the proposed car park would result in an improvement from the current situation. The additional parking spaces and circulation

spaces away from School Lane would remove parking demand and pressure from the existing highway.

8.141 The proposal would not be considered to result in a severe impact to the local highway network and would see some improvements to the pressure on surrounding roads during peak hours in relation to the School. The proposal subject to conditions and developer contribution would be considered acceptable.

8.142 **Biodiversity**

8.143 Policy DM 28 of the Local Plan states that development proposal will conserve, enhance, and extend biodiversity, and provide net gains in biodiversity where possible.

8.144 The application was accompanied by an Ecological Impact assessment. The site is currently mainly comprised of compacted earth for the car park and arable farmland with vegetation to the northern and eastern boundaries. The sites context means that there is little protected species of interest on site.

8.145 The report indicated the presence of a small population of slow worms. Mitigation in the form of on-site translocation to the proposed areas of grassland. KCC Ecology consider that this would be an acceptable form of mitigation and could be secured by condition if members were minded to approve the application.

8.146 The potential for other protected species onsite including further reptiles, dormice, badgers for foraging and commuting. Further breeding bird may be located along the boundary vegetation. As a result, KCC Ecology have suggested a precautionary approach during construction. Again, this could be secured via condition, as suggested below.

8.147 Further to the use of the site for foraging and commuting, to ensure mitigation against the potential adverse effects of lighting on bats a condition to secure the sensitive lighting design would be secured via condition.

8.148 Under section 40 of the NERC Act (2006), paragraph 174 of the NPPF (2021) and the Environment Act (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2021, the implementation of enhancements for biodiversity should be encouraged.

8.149 The submitted biodiversity net-gain report shows that a net-gain can be achieved. Primarily, this is achieved through native species planting and creation of a variety of habitats, including wildflower grassland (one of the most valuable additions for biodiversity). The report indicates a net increase of 2.51 habitat units (69.03%) and a net increase of 7.43 linear units (50.24%).

8.150 While the landscape management could be secured through section 106 obligation. To ensure appropriate management to secure meaningful ecological enhancement a condition would be applied to any grant of consent securing a Landscape Ecological Management Plan.

8.151 As noted by both Natural England and KCC Ecology the site is located within a 6km buffer of the designated European sites the Swale SPA and Ramsar sites. The proposal

would result in a net increase in residential dwellings which can have an associated recreational pressure on these sites. As a result, an appropriate assessment will be undertaken below.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017:

- 8.152 The application site is located within the 6km buffer of (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations) and Wetland of International Importance under the Ramsar Convention.
- 8.153 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.
- 8.154 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 8.155 The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£275.88 per dwelling as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.
- 8.156 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 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment.
- 8.157 The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *“it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.”* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.
- 8.158 The proposal would have an impact upon the SPAs, however the scale of the development (25 residential units) is such that it would not be considered, alongside the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff, that the impacts would be significant or long-term.

8.159 Based on the potential of 25 residential units being accommodated on the site A SAMMS contribution of up to £6,897.00 could be secured under the Section 106 agreement. The legal agreement could be worded such that it sets out that the SPA mitigation contribution is to be secured prior to the occupation of any dwelling. Therefore, taking into account the above it is considered that there will be no adverse effect on the integrity of the SPAs.

8.160 Finally, it can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others. (<https://birdwise.org.uk/>).

8.161 The proposal would be considered to reflect the aims of policy DM 28 and would provide onsite improvements for biodiversity as well off-site mitigation through SAMMS contributions.

8.162 **Water, Flooding, and Drainage**

8.163 Policy DM 21 of the Local Plan seeks to ensure that development proposals will demonstrate that the most suitable means of drainage will be achieved on the site and Flood Risk Assessments will be provided where a development is at risk of flooding.

8.164 The application site is located in Flood Zone 1 which is an area at low risk of flooding. A Flood Risk Assessment was provided as part of the application. The risk from rivers and sea was considered negligible and no risk of ground water flooding were considered to occur on the site.

8.165 The proposed means of foul drainage would be through connection to the Southern Water sewer located along School Lane. Southern Water reviewed the application and has considered that they can provide foul sewage disposal to the proposed development. No objection has been received from the Environment Agency.

8.166 The proposal would utilise a combination of permeable paving leading to infiltration basins provided to the northern boundary and west of the car park. The basins would reflect the preferences of the Local Plan which have benefits both visually, ecologically, and for drainage purposes.

8.167 Kent County Council flood water management consider the drainage proposal a significant betterment and ensure compliance with the discharge hierarchy. KCC Flood Water Management did proffer conditions to be applied, which members could apply to any grant of consent. Further conditions could be applied ensuring landscaping of the infiltration basins to ensure visual enhancement.

8.168 The proposal is considered to comply with policy DM 21 of the Local Plan and reflective of local policy, subject to conditions.

8.169 **Minerals**

8.170 A Minerals Safeguarding Assessment was provided as part of the application by RPS Consulting service. The assessment provided an overlay of the Mineral Safeguarding

Area as defined for Brickearth by the British Geological Survey. The overlay indicates that only a small corner to the north-west of the site is located within the safeguarding area, which includes a limited developed area.

8.171 The area within the Mineral Safeguarding Area is less than 0.25 hectares. As part of the application the only Brickearth user in the area was contacted (Weinberger Ltd). Weinberger Ltd stated that they were not interested in the site as a source of Brickearth as it would not be viable to extract the mineral.

8.172 Kent County Council Minerals and Waste were consulted on the application and found no objection to the proposal. The proposal would not present a viable extraction area and would not conflict with Policy DM 8: Safeguarding Minerals Management, Transportation, Production and Waste Management Facilities of the adopted Kent Minerals and Waste Local Plan 2013-30.

8.173 Affordable Housing

8.174 Policy DM 8 of the Local Plan identifies that for development proposals of 11 or more dwellings there will be a need to provide affordable housing. The policy requires the provision of 40% affordable units in rural areas. The size, tenure and type of affordable housing would be provided in accord with the needs of the area.

8.175 The proposal would provide a policy compliant on-site provision of 40% which would equate to 10 units. The units would be distributed across the site which would provide good social integration. The proposal would provide 5 – 2-bedroom units and 5 – 30 bedroom units.

8.176 The guidance of policy CP 3 indicates a requirement for 1-, 2-, 3- and 4-bedroom dwellings. The split would not reflect this guidance. However, given the location of the site the provision of 1 bed units usually provided in a flatted form and 4- bedroom units might disrupt the grain of development and an onsite provision is welcomed.

8.177 Paragraph 7.3.8 of the Local Plan provides guidance for the tenure associated with the affordable housing requirement which seeks an indicative target of 90% affordable/social rent and 10% intermediate products.

8.178 The Housing Officer has indicated that due to a Written Ministerial Statement and amendments to the National Planning Policy Guidance a minimum of 25% of all affordable housing units should be provided as First Homes. When taking account of the new First Homes requirements, the remaining 75% of s106 affordable housing should be secured as social rented.

8.179 The provision of a 25% First Homes and 75% socially rented tenure was sought in line with the emerging government guidance. However, in regard to providing on-site provision which is the Council's preferred provision the Registered Providers would not accept the lower provision (7 units) they would be offered if implementing a 25% provision of First Homes.

8.180 As such, the offered position of 50% affordable rent and 50% shared ownership was considered acceptable by the housing officer in the provision of on-site affordable housing.

8.181 Sustainability

8.182 Policy DM 19 of the Local Plan requires that development proposals will include measures to address and adapt to climate change.

8.183 The proposal would exceed the building regulations requirements by 15% and the dwellings would be designed on a Fabric First approach exceeding the target by 11.21%. The approach would include the installation of high performing gas central heating systems with advanced controls.

8.184 The scheme would also include the provision of solar panels on 10 units (50% of the scheme). The net result of this installation would be to see an exceedance of 14.73% of the building regulations. The units which would benefit from the solar panels would be plots 8 to 12, 17 & 18, 23 to 25, which are the affordable units. This would have a tangible benefit to those units.

8.185 Should Members be minded to grant planning permission for the application, details of the solar panels could be secured via condition.

8.186 Contamination

8.187 The Environmental Health Officer has commented on the proposal and recommended the inclusion of Contaminated Land Conditions. There is no obvious contamination issue related to the site other than in connection with the agricultural use and proximity to a graveyard.

8.188 A Phase 1 desk study would be required in association with any grant of consent, this could be provided in the form of a pre-commencement condition. The assessment would a historic background and potential contaminated land at the site. Should contamination potential be identified a phase 2 intrusive investigation and remediation would then be triggered by condition.

8.189 Pre-commencement conditions would be considered sufficient to ensure that development would provide safe habitable residential accommodation.

8.190 Air Quality

8.191 Policy SP 5 of the Local Plan criteria 12 states that development will be consistent with local air quality action plans for Newington High Street and bring forward proposal for mitigation of adverse impacts. Swale Borough Council Air Quality Action Plan (2018 – 2022) sets out local AQAM Measures.

8.192 Policy DM 6 managing transport demand and impact criteria (d) states that:

“integrate air quality management and environmental quality into the location and design of, and access to, development and, in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree especially taking into account the cumulative impact of development schemes within or likely to impact on Air Quality Management Areas”.

8.193 Paragraph 186 of the National Planning Policy Framework states that:

“Planning Policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan”.

8.194 The locally focused measures within the Air Quality Action Plan identify those measures to be introduced into individual AQMAs are those which target:

- Initiatives that inform and protect local residents,
- Smooth traffic flows causing less congestion of all vehicles through the AQMAs,
- Access to cleaner alternative transport for residents and business.

8.195 The plan identifies local focussed measures will be implemented through ‘local’ measures set out in table 5.2. The table indicates for Newington these would consist of Local school and business travel plans and promoting travel alternatives.

8.196 The Newington Air Quality Management Area (AQMA) is located to the south of the site in excess of 400m from the site. The AQMA is located along the A2 High Street Newington. Further along the A2 Medway Council has also identified an AQMA on Rainham High Street.

8.197 An Air Quality Assessment was provided by the applicant. The assessment considers the development on an individual and a cumulative basis. The assessment also considers the impact of both the construction process and vehicle emissions.

8.198 The Air Quality assessment concluded that the impact as a result of construction process could be mitigated in regard to dust production. The proposal would need to implement mitigation, which would be secured via condition to ensure acceptable levels of dust during construction. Further, continuous visual assessment of the site during construction and a complaints log should be maintained during the development.

8.199 In regard to the vehicle emission impact the proposal in isolation has been assessed with proposed predicted levels in 2024. The impact when assessing the development in isolation would have a negligible impact to air quality with some receptors seeing a moderate impact. The impacts of the development on its own result in a less than a 1% change at existing receptors.

8.200 The proposed development’s impact in isolation would not therefore be considered to have significant harm to human health.

8.201 In assessing the development cumulatively, the worst-case predicted scenario 2024 model indicated moderate or substantial impacts. The assessment is based on the

proposed and committed developments in Newington only. The impact associated with committed development in Newington only is considered to be reduced due to changes in vehicle emission in 2024. Under this scenario the impacts from committed development in Newington are considered to be medium with the change to receptors as less than 5%.

8.202 As a result of the cumulative impacts of all committed development and the proposed development an Emissions Mitigation Assessment was undertaken. A damage cost was undertaken including NO_x, PM₁₀, and PM_{2.5}. The damage cost (without mitigation) associated with the additional vehicle movements associated with the development over a 5-year period was considered to amount to £13, 000.00.

8.203 The applicant outlined how the damage cost mitigation of the £13, 000.00 which would be spent for on-site mitigation. The distribution of cost would be spent on a Travel Plan, welcome packs, car club etc. The damage cost calculation would be secured via section 106 and would in part be spent on an amount provided to each dwelling to be spent on subsidies public transport (bus/and or train travel tickets).

8.204 A further £5,000.00 above the required damage cost calculation would be provided for contribution towards the delivery of e-bikes or other approved schemes to combat air quality issues (this would rely on contribution from other development to reach a viable contribution pot. This will be secured via the section 106 agreement.

8.205 The technical transport note also provides mitigation measures through the Travel Plan which will encourage mode shifts. The provision of 12month subsidised public transport for new residents would aim to increase use of public transport. Further, the Transport Plan would encourage the use of apps for journey planning.

8.206 The technical note identified that the Department for transport 'Sustainable Travel Towns', indicated that some projects involving a varied range of initiatives to reduce car reliance found an average reduction of car use of 7-10% per resident. The conclusion of the Transport note indicates that provided measures could see a reduction of trips by vehicles.

8.207 It should be noted that all dwellings would have the provision of an electrical vehicle changing point, but these are not considered as part of the mitigation package and low emission boilers would also be conditioned.

8.208 The University of Kent responded to the application as per a request from the Parish Council. The University of Kent does not agree with the conclusion of the Air Quality Assessment considering that the model used in the assessment under predicts the NO₂. The assessment also considers that the proposed mitigation measures to be vague and weak.

8.209 The proposal individually is not considered to have an individually a significantly negative impact. The concerns primarily derive from a cumulative impact with other committed development.

8.210 Paragraph 186 of the National Planning Policy Framework does make it clear that opportunities to improve or mitigate impacts should be considered at the plan making

stage. The NPPF encourages the need for opportunities to be considered at plan making stage to ensure a strategic approach. Paragraph 186 state individual application is consistent with the local air quality management plan.

8.211 The proposal would be considered to provide an improvement to traffic flows due to the provision of a dedicated drop off zone preventing idling. The proposal would also see the provision of an extended pedestrian path to local transport networks in Newington, and mitigation would provide residents with discounted tickets. The proposal would be considered to meet with the Local Air Quality Management Plan.

8.212 The proposal is considered acceptable in this regard subject to securing of mitigation package.

8.213 **Archaeology**

8.214 The application site is not located within an area of Archaeological Potential, as this extends to the north-east in a north-west/north-east trajectory. However, the local area has been subject to archaeological finds. The Archaeological assessment submitted with the application does not identify either designated or non-designated archaeological remains on site.

8.215 The assessment was based on a walkover study. No response has at this stage been provided by Kent County Council Archaeology, though I hope to be able to update Members at the meeting. The site does lie near an area of archaeological potential. Given the potential a condition would be applied to secure investigation prior to commencement to rule out conclusively the potential for remains on site.

8.216 **Developer Contributions**

8.217 Policy CP 6 and IMP 1 seek to deliver infrastructure requirements and other facilities to ensure the needs of the Borough are met.

8.218 Kent County Council have outlined the contributions required in association with the development (Members will note the consultee response from KCC above). The contributions would be put towards primary, secondary, and special education needs. Further contributions would be sought for community learning, youth services, library book stock, social care, and waste.

8.219 On the basis of 25 units being constructed KCC have requested a contribution of approximately (not including the index rate) of £337,393.50. Such an amount could be secured via section 106 agreement.

8.220 Further, to the above Swale would require contribution towards the provision of wheelie bins of approximately £2, 647.50. Administration/monitoring fees, SPA mitigation as referenced above, Air Quality Damage Cost Calculations.

8.221 No comments have been received from Open Space team. However, based on the Open Spaces and Play Area Strategy 2018 – 2022 a contribution would likely to be sought on the basis of £593.00 per dwelling on formal sports and £446.00 per dwelling for play and fitness. The total would amount to £25, 975.00.

8.222 Kent and Medway Clinical Commissioning Group also made comment noting that the proposal would generate a requirement for an additional 72 patients. The comments note that the proposal would fall within the current practice boundaries of a number of surgeries in the surrounds of Newington. The proposal would need to contribute due to the limit capacity within existing general practices. The total amount requested would be £26, 028.00.

8.223 In addition to the above a contribution has been requested by Kent County Council Highways. The requested amount would total £34, 056.96. The contribution would be put towards the improvements on the Key Street roundabout. The site is located close to this junction in the Borough and would work towards improvement works.

8.224 The contributions would be secured via section 106 agreement and securement of an appropriate monitoring fee.

8.225 Titled Balance

8.226 As identified above paragraph 11 Plans and decisions should apply a presumption in favour of sustainable development... For decision making this means: ...d) where there are no relevant development plan policies, or the policies which are most important for determining the development are out of date, granting planning permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

8.227 Swale Borough Council's Local Plan is out of date and as per footnote 8 of paragraph 11 does not have a 5-year housing supply. The site is also not located in a protected area as identified by paragraph 11. The proposal must be considered in light of the titled balance.

8.228 The proposal site is located outside of the built environment and lies adjacent to a settlement which has been identified for development. The site is not totally removed from the public transport links. The development would support the provision of infrastructure to allow pedestrians to access these amenities.

8.229 The proposal would as identified above result in some landscape harm and a moderate level of harm to the setting of the listed Church. Paragraph 202 of the NPPF states:

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

8.230 The proposal would not result in harm to the designated asset. However, the Conservation Officer considers that a moderate level of less than substantial harm would occur to the setting of the Church spire setting. The harm would be considered limited due to the scale of the proposal and separation from the Church and the retention of rural fields both within the associated Conservation Area and surrounding fields.

- 8.231 The proposal would provide a car park for the local school. The dedicated car park would provide not only a sufficient degree of parking for the School but would allow drop off areas for parents which remove traffic from the local road network and idling vehicles. The dual benefits including safer access to the School for children and parents, preventing pollution from idling cars, and preventing blocking of the local road network. Further, the proposal would provide additional housing addressing an identified need in the borough.
- 8.232 The proposal would also result in some landscape harm in seeing the loss of part of an open field which sits outside of the defined development boundary. However, as above the proposal would see additional landscaping to an area which is predominately farmed and has limited value. The site is not isolated as it is located adjacent to the School with development present to the north east. The land is not a designated landscape either nationally or at the local level.
- 8.233 The harm to the landscape and setting of the listed building is not considered significant. In applying the titled balance, the proposal is considered to tip the balance in favour of approval.

9. CONCLUSION

- 9.1 The proposed development would result in the loss of a small section of agricultural land and the development of greenfield land. The proposal would see a degree of landscape harm and impact to the setting of the Listed St Mary's Church.
- 9.2 However, the Local Authority cannot demonstrate a 5-year housing land supply. The titled balance is therefore applicable to the site as is not located within a protected area nor within an identified local level of landscape importance.
- 9.3 The proposal would result in tangible benefits such as the provision of a permanent car park for the local school. To ensure benefits of this proposal road restriction would be put in place to ensure idling and traffic would no longer queue along School Lane. The car park would provide a dedicated drop off zone for parents and reduce pressure on the local network.
- 9.4 In addition, the proposal would provide additional housing and on-site affordable housing in the Borough adjacent to a settlement on the development hierarchy strategy. The proposal is considered on balance acceptable and is recommended for approval.

- 10. RECOMMENDATION** – Grant subject to conditions and Section 106 agreement with delegated authority to amend the wording of the s106 agreement and conditions as may reasonably be required.

CONDITIONS

- 1) The developments to which this permission relates must be begun no later than the expiration of three years beginning with the date on which the permission is granted.

Reason: 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 developments hereby approved shall be carried out and maintained in accordance with the following approved plans:
- Site Location Plan – 4176/p001,
 - Entrance Landscape Sketch 1594/001 Rev F,
 - Proposed Access – 15058-H-01 P7,
 - Vehicle Swept Path Analysis 11.4m Refuse – 15058-T-01 P3,
 - Vehicle Swept Path Analysis Pantehnicon – 15058-T-02 P2,
 - Vehicle Swept Path Analysis Fire Tender – 15058-T-03 P2,
 - Play Strategy – 1594/003 Rev A,
 - Landscape Masterplan – 1594/002 Rev D,
 - Proposed Site Plan – 4176/p003 (Aug 2022),
 - Floor Plans – plot 1 – 4176/p100,
 - Floor Plans – plot 2 – 4176/p100,
 - Floor Plans – plot 11&12 – 4176/p100,
 - Floor Plans – plot 13&20 – 4176/p100,
 - Floor Plans – plot 14 – 4176/p100,
 - Floor Plans – plots 17&18 – 4176/p100,
 - Floor Plans – plot 19 – 4176/p100,
 - Floor Plans – plot 21 – 4176/p100 (Aug 2022),
 - Floor Plans – plot 22 – 4176/p100,
 - Floor Plans – plot 23 – 25 – 4176/p100,
 - Floor Plans – plot 3&4 – 4176/p100,
 - Floor Plans – plot 5 – 4176/p100,
 - Floor Plans – plot 6&7, 15&16 – 4176/p100,
 - Floor Plans – plots 8 – 10 – 4176/p100,
 - Elevations – plot 1 – 4176/p101,
 - Elevations – plot 11&12 – 4176/p101,
 - Elevations – plot 13&20 – 4176/p101,
 - Elevations – plot 14 – 4176/p101,
 - Elevations – plots 17&18 – 4176/p101,
 - Elevations – plot 19 – 4176/p101,
 - Elevations – plot 2 – 4176/p101,
 - Elevations – plot 21 – 4176/p101,
 - Elevations – plot 22 – 4176/p101,
 - Elevations – plot 23 – 25 – 4176/p101,
 - Elevations – plot 3&4 – 4176/p101,
 - Elevations – plot 5 – 4176/p101,
 - Elevations – plot 6&7, 15&16 – 4176/p101,
 - Elevations – plots 8 – 10 – 4176/p101,
 - Boundary Treatment Strategy Plan – 4176/sp01C,
 - Tenure Strategy Plan – 4176/sp02,
 - EV Charging & Parking Strategy Plan – 4176/sp03 (Aug 2022),
 - Refuse Strategy Plan – 4176/sp04 (Aug 2022),
 - Fire Strategy Plan – 4176/sp05.

Reason: For the avoidance of doubt and interest of proper planning.

- 3) Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment and the Drainage Strategy prepared by Fairhurst dated July 2021 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the

climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

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

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

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

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

Reason: To ensure that flood risks from development to the future users of the land and neighboring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

- 5) Prior to the commencement of the development details of the proposed lighting associated with the proposed car park as illustrated on plan 4176/p003 shall be submitted to and approved in writing by the local planning authority. The details shall ensure low level lighting. The development shall be carried out in accord with the approved plans, prior to bringing the development into first use and maintained as such thereafter.

Reason: In the interest of the dark skies of the countryside and neighboring amenity.

- 6) From the commencement of works (including site clearance), all mitigation measures for protected species will be carried out in accordance with the details contained in sections 8.5 through to 8.16 of the 'Interim Ecological Assessment' (Bakerwell July 2021).

Reason: In the interests of protected species.

- 7) Prior to occupation, a lighting design plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter. No external lighting other than agreed subject to this condition shall be installed on site without the prior consent of the local planning authority.

Reason: In the interests of protected species.

- 8) Prior to completion/first occupation of the development hereby approved, A Landscape and Ecological Management Plan (LEMP) will be submitted to, and be approved in writing by, the local planning authority. The LEMP will be based on the 'Landscape Masterplan' Rev B (Murdoch Wickham July 2021) and will include the following.
 - a) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management prescriptions for achieving the aims and objectives;
 - e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - f) Details of the body or organisation responsible for implementation of the plan;
 - g) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Reason: In the interest of ecological enhancement of the site.

- 9) No development approved by this permission shall be commenced on site prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority. The Contaminated Land Assessment shall comprise:
 - a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy maybe be required, based on the results of the desk study, in which both shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.

Reason: In the interest of amenity.

- 10) Prior to the commencement of the development hereby approved, details of a Dust Management Plan (DMP) shall be submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interest of amenity.

- 11) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 - 1800 hours, Saturdays 0800 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interest of amenity.

- 12) Prior to reaching slab level on the development hereby approved, details of the solar panels to be implemented on site shall be submitted to and approved in writing by the local planning authority. The solar panels shall be implemented on site prior to first occupation of the development and maintained as such thereafter.

Reason: In the interest of sustainability.

- 13) Prior to first occupation of the development hereby approved provision and permanent retention of all Electric Vehicle Charging points shown on the approved plan EV Charging and Parking Strategy Pan 4176/sp03. All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved ChargePoint model list.

Reason: In the interest of air quality.

- 14) The development shall be designed to achieve a water consumption rate of no more than 110 liters per person per day, and no dwelling shall be occupied unless the notice for that dwelling of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability.

- 15) Upon completion of the development, no further development permitted by classes A, B, C, D or E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order), shall be carried out to the semi-detached pair of dwellings (as labeled at 1 and 2 on plan 20 0931/03 Rev F).

Reason: In the interest of visual amenity of the countryside and appropriate amenity.

- 16) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site.

Reason: In the interests of visual amenity.

- 17) Prior to reaching damp proof course details of the proposed materials to be used in the construction of the development hereby approved shall be submitted to and

approved in writing by the local planning authority. The development shall be carried out in accord with the approved details.

Reason: In the interests of visual amenity.

- 18) Prior to reaching Damp Proof Course of the development hereby approved a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be based on the landscape strategy drawing 'Landscape Master Plan 1594/002 Rev D and should provide images together with relevant sizes/ dimensions of the relevant shrubs, trees, surfacing materials (hard surfaces) and boundary treatments to be used. The development shall indicate a landscape buffer along the western boundary of the site which shall include a strong mix of native species trees. The development shall be carried out in accord with the approved details and in accordance with a program that shall first have been agreed in writing by the Local Planning Authority.

Reason: In the interest of enhancing the visual amenity of the area.

- 19) 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.

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

- 20) Prior to the commencement of the development hereby approved details of the proposed tree protection measure across the site shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented prior to the commencement of any development and maintained throughout the course of the development.

Reason: In the interest of the visual amenity of the area.

- 21) Prior to the first occupation of any part of the development hereby approved a Landscape Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall be adhered to thereafter.

Reason: To ensure the visual amenity of the area.

- 22) Prior to first occupation of the development hereby approved details of the proposed play equipment and seating shall be submitted to and approved in writing by the Local Planning Authority. The details shall be based on the 'Play Strategy 1594/003 Rev A'. The approved details shall be implemented prior to first occupation of the development and maintained as such thereafter.

Reason: In the interest of open space and recreation.

- 23) Prior to the commencement of the development hereby approved, details of a parking management scheme for the proposed school car park shall be submitted to and approved in writing by the local planning authority.

Reason: In the interest of highway safety.

- 24) Prior to the commencement of the development the applicant (or their agents or successors in title) shall secure and have reported a programme of archaeological field evaluation works, in accordance with a specification and written timetable shall be submitted to and approved in writing by the local planning authority. Should the watching brief indicate remains of interest no development shall take place until details have been provided securing safeguarding measures to ensure the preservation of archaeological remains and recording. The development shall be carried out in accordance with the approved details.

Reason: In the interest of the archaeological interest.

- 25) Prior to reaching slab level of the development hereby approved, further details of all means of enclosure shall be submitted to and approved in writing by the Local Planning authority. These details shall be in accord with the Landscape Master Plan 1594/002 Rev D and include the proposed materials, overall height, and siting. The approved details shall be implemented prior to first occupation of the development and maintained as such thereafter.

Reasons: In the interest of visual amenity and conserving the character of the rural lane.

- 26) Prior to first occupation of the development hereby approved details of the permanent accessibility of the proposed pedestrian walkways shall be submitted to and approved in writing by the local planning authority. The approved details shall be adhered to thereafter.

Reasons: In the interest of open space and recreation.

- 27) Prior to the commencement of the development details of how the development will comply with the requirement of the principles of 'Secure by Design' shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accord with those details.

Reasons: In the interest of residential amenity.

- 28) Prior to the occupation of any of the units hereby permitted the visibility splays as shown on the approved plans shall be provided with no obstructions over 1.2m above carriageway level within the splay, street nameplates and highway structures if any and maintain as such thereafter.

Reason: In the interest of highway safety.

- 29) The approved parking as illustrated on plan 4176-sp03 Rev C shall be provided prior to bringing the development into first use and retained thereafter.

Reason: In the interest of highway safety.

- 30) Prior to the commencement of the development details of all proposed secured, covered cycle parking facilities shall be submitted to and approved in writing by the local planning authority. The approved cycle parking provision shall be supplied in accord with the approved details prior to first occupation of the development hereby approved.

Reason: In the interest of sustainable transport.

- 31) Prior to the occupation of any of the units hereby permitted the approved access as show on the approved plans including 4176/p003 Aug 2022 shall have been completed and brought into use and maintained as such thereafter.

Reason: In the interest of the local highway network.

- 32) Prior to the occupation of any units as approved by the development hereby approved the completion of the off-site highway works to provide a footway and the carriageway widening along School Lane as shown on drawing 15058-H-01 revision P7, including the proposed extension of the speed restrictions shall have been completed and brought into use.

Reason: In the interest of highway safety.

- 33) Prior to occupation of any units as approved by the development the School parking/drop off and collection area shall have been completed in accord with the approved plan 4176/p003 Aug 2022.

Reason: In the interest of the highway network.

- 34) Prior to the commencement of the development hereby approved details of the proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and constructed shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accord with the approved details and maintained as such thereafter.

Reason: In the interest of highway safety.

- 35) Prior to the occupation of any of the units as approved by this development details the following works between a dwelling and the adopted highway shall have been completed:
- (a) Footways and/or footpaths, with the exception of the wearing course;
 - (b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interest of highway safety.

- 36) Prior to first occupation of the development hereby approved the Key Street highway improvement works contract has been awarded.

Reason: In the interest of Highways.

- 37) Prior to the construction of any dwelling in any phase details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials and measures.

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

- 38) Prior to the commencement of the development hereby approved a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management shall include the following:
- (a) Routing of construction and delivery vehicles to / from site,
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel,
 - (c) dust management and compliant log,
 - (d) Timing of deliveries,
 - (e) Provision of wheel washing facilities,
 - (f) Temporary traffic management / signage,

The development shall be carried out in accord with the approved Construction Management Plan at all times.

Reason: In the interest of highway safety.

Informative

1. It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.



APPENDIX 1**Appendix 1 – Newington Parish Council Comments:**

Application: 21/504028/FULL Land At School Lane, Newington ME9 7JU

Proposal: Erection of 25no. residential dwellings and the provision of a 20 space staff car park and 20 space pupil pick-up/drop-off area for Newington C of E Primary School, together with associated access, landscaping, drainage and infrastructure works.

Newington Parish Council objects to this application.

Our submission outlines our objections, referencing these to relevant reports (from Swale planning officers, SBC policy documents, planning inspectorate decisions and other applicable documents). We show how these material considerations are substantiated in SBC policy and the National Planning Policy Framework.

1 False justification given for this proposal

The proposal for 25 homes is predicated on the supposed need for a new permanent drop-off zone and some additional parking at Newington CP School. This could be met by a permanent arrangement for use of the land currently enjoyed for this purpose.

The applicant's Design and Access Statement

The 'School drop-off and parking area of the proposal is the focal element of the scheme. Newington Church of England Primary School (Newington CEPS) currently have a short term lease arrangement, expiring in June 2022, to use the land off of School Lane as a temporary staff parking and drop off zone. The parking / drop off area is needed because the existing school grounds are constrained and do not provide sufficient car parking for staff nor allow a safe zone for parents to drop off their children.

There are 21 parking spaces on the spacious school site with a total 42 teaching and support staff in the school and adjacent Cherries pre-school. Prior to the temporary parking/drop off area being provided, during peak times the roads easily became congested, causing tension between parents, increased pollution due to idling cars and increased safety risks.

This temporary site was originally farmland, repurposed with a hard surface for construction vehicles and then as a car park for the portacabin sales office when the landowner sold the land opposite for the construction of 14 homes as Blaxland Grange. Through Members' grants the School was able to construct a secure pedestrian route from school to this land. It is our understanding that no planning application was made for change of use of the land from agriculture to contractor hardstanding/ school use and that the land is currently registered still listed as for agricultural use.

Although an improvement from the existing school site, the temporary parking/drop off area does not meet the full requirements of the school.

The current area is probably sufficient for 20 additional staff car parking spaces, and two or three spaces of off-road short-stay parking for visitors during the day as well as a drop-off zone for blue badge holders, taxis and parents. Like most schools Newington CEP has a policy of no vehicle movements on the school site at the beginning and end of the school day. The facility will be delivered through a freehold transfer in perpetuity to Kent County Council which can be secured by way of planning obligation.

APPENDIX 1

This could be met through the landowner simply gifting the current site to Kent County Council rather than short-term agreements.

The 'consultation' with parents of Newington School pupils had a fairly high response rate due to the fact that it was sent by the School (roll 200 in the summer term, 120 families consulted, 54% response rate) but the question was:

'Following the successful establishment of the drop off zone, we wanted you to know that the current arrangement is up for review. Under a new scenario, and with enough support, we would potentially be provided with a fully tarmacked and fit for purpose car park, drop off zone and paved path in to school. This would be provided in perpetuity by a community contribution from a Developer as part of a potential housing development adjacent. Please complete and submit the form below so your voice can be heard and will be considered in any future developments. Kind regards, Newington CEP School'

Of the 120 families 55 did not respond and 56 said they would use the drop-off area. Their support was for this facility – not for a development of 24 homes.

Currently visitors park on the road or use the parish church car park 300 metres away.

2 The location of the proposed development

It is hard to envisage a less-suitable site for a housing development.

The proposed site is at the junction of School Lane with Bricklands (known locally at Mill Hill or 'the road with no name'!)

Church Lane is an ancient highway and the only road to the north of the A2. As such it serves as access and egress for its residents and those using the roads leading from it. As well as being narrow, Church Lane offers the only parking for most of the 135 houses either side of the road and for some of the properties on the A2. Whilst just manageable at some times of the day, Church Lane often comes to a standstill at the start and end of the school day. As most of the Village population live South of the A2, parents choose to drive, often backing-up along the A2 until there is space to enter Church Lane.

There are two roads off Church Lane: St Mary's View and Denham Close. The former was the subject of an earlier unsuccessful planning application for extension in 2015 with the planning appeal dismissed in March 2017 (see below)

At its northern end Church Lane divides west to School Lane, north via Wardwell Lane, a narrow route to Lower Halstow; and East becoming Iwade Road / High Oak Hill towards the much-enlarged Iwade, many residents of which use it as 'rat-run' for the station and towards the Medway Towns.

School Lane stretches only 100 yards before dividing into Bricklands (a single track by-way) and Boxted Lane (again narrow, but with passing points); both lead to Breach Lane.

Boxted Lane floods for much of the year as water flows from adjacent fields. Attempts at alleviation through roadside grips have not been successful. Kent County Council have confirmed that the cost of a modern drainage system would be prohibitive; residents and road users are left with the situation where, on request, floodwater is pumped into tankers when necessary. This has been confirmed as policy by the KCC Cabinet Member for Highways and Transport.

APPENDIX 1

The School has been here since Victorian times; plans to relocate it to a new site, south of the A2, off Playstool Road were dropped 40 years ago due to KCC finances. Some expansion of parking and a drop-off facility are needed. A housing development would make the traffic situation considerably worse. The applicants Transport statement (5.5.6) estimates '117 vehicle trips across the 12 hour weekday period'; we submit that most of these would be at peak times to coincide with the start and end of the school day as well as others from the village and Iwade on their way to and from work.

An unreliable traffic count was undertaken in summer 2016 (end of the school summer term) and an up-to-date one is required for period covering normal term-time school days.

We have an ongoing concern for the safety of children who walk to school and are unconvinced by the applicants proposal in 'Access and Highways' para 3.3.4 of their Planning Statement.

We are relieved that Fernham Homes decided not to proceed with plans to build between Bricklands and Bosted Lane as this would abut the village cemetery – a place of calm, greatly valued by the families of deceased who regularly visit.

We note that the Newington Parish Council was, unusually, formally consulted on a planning application in Bobbing, our neighbouring parish (Application: 21/500173/FULL Land East Of Hawes Woods, High Oak Hill, Iwade Road, Newington ME9 7HY Proposal: Retrospective application for change of use of land from agricultural to animal rescue including new stock fencing and gates, mobile field shelters, small animal houses, shipping containers for storage, associated boundary treatment and stationing of a mobile caravan for use as a residential unit for staff.) the officer email: 'The neighbouring Newington and Lower Halstow Parish Councils have been consulted, at the request of the Development Manager, Planning Services, due to potential effect on roads leading to the site'. This clearly acknowledges a concern about traffic on the rural road network in this vicinity and the cumulative effect of any developments.

The development at Blaxland Grange was the subject of a condition that all construction traffic should reach the site via Iwade Road rather than Church Lane; a further acknowledgment of congestion problems on the narrow Church Lane, as well as the height restriction under the railway bridge.

There are also concerns about sewerage in this part of the village. A complete upgrade of the main sewer running south to Lower Halstow is long overdue and has been consistently postponed due to cost. Currently sewage is stored in underground tanks for pumping outside peak hours. There has been flooding on a number of occasions.

The applicant refers to this (6.2.11) as a 'currently underdeveloped part of the village'. There is a good reason for the lack of development: the road network is poor and it is outside the defined built up area.

3. Swale Borough Council and NPPF Policies relevant to this proposal

- It is not part of the existing Swale Borough Council Plan
- It is not included in the latest consultation exercise on the local plan
- It was not part of the 'call for sites' for the Strategic Housing Land Availability Assessment in October 2020
- The Swale Local Plan Panel on 29 October 2020 followed the officer recommendation 'that no sites in Newington should be progressed for inclusion as allocations in the Local

APPENDIX 1

Plan Review’.

Therefore this application is contrary to Swale’s policies and procedures. It is a premature application.

In the Local Plan, Policy ST 3 identified Newington as a Tier 4 Rural Local Service Centre with noted limitations to expansion, so the village was allocated a growth rate of 1.3%. Even in the 2017 edition of the Local Plan, the restrictions on growth were reiterated with the single exception of “Land North of the High Street”.

The following facts emphasise the extent that Newington has already played in fulfilling the targets of the Local Plan:

1. Total already built in Newington 2014 to now is 180 properties
 - a. For the target six years to date that is 297.5%
 - b. Or for the full 17 year quota that is already 105.3%

Since the Census in 2011 (population 2551 in 1089 household spaces; data from 2021 not yet available), this village has grown by 18%. (for detail used in the calculation please see appendix 1)

In reality: the village school has vacancies only in specific year groups; there is one convenience store, a public house and a joint pharmacy/post office; the GP surgery is not accepting new patients (extensively covered by recent media reports highlighting difficulties for Newington residents to obtain the services of the doctor locally by telephone or face-to-face); there is a limited weekday bus service, nothing on Sundays; one train per hour in each direction stops at Newington station. This was one reason for the Local Plan Panel October 2020 decision not to progress allocations in the local plan review.

The Parish Council is sure that Members will understand the cumulative effect of this increase and that of the proposal for a further 25 homes.

This application is outside the built-up (see policies E6 RC3). The exception – where a proposal is ‘able to demonstrate that it would contribute to protecting and where appropriate enhancing the intrinsic value, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities’. does not apply.

This proposal does not enhance the countryside or the vitality of the rural community.

The proposal does not meet the definition of sustainable development in rural areas “To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

It does not provide housing for agricultural workers on neighbouring land and so is contrary to the principle.

The land is not a ‘brownfield’ site; it is agricultural land Policy DM31: Agricultural Land – confirms development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up areas.

Development on BMV will not be permitted unless:

1. The site is allocated
2. There is no alternative site on land of a lower grade than 3a
3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely significant losses of high-quality agricultural land

APPENDIX 1

Fernham Homes gave a presentation to Newington Parish Council in June 2021 and were clear that they saw the potential for further development adjacent to this site; this would lead to even more significant loss of agricultural land as well as a seriously detrimental effect on the rural character of the area.

4 The proposed development is outside the defined urban boundary of our village.

There is one planning inspectorate decision (2016) close to this site. We also give detail of three more recent inspectorate decisions 2018-2021 where dismissal of the appeals was due to the proposal being outside the defined built-up area. We quote also from the 2020 decision in a neighbouring village, dismissed on the same grounds.

- a) Land to East of St Mary's View, Church Lane
The closest application for a significant development was Land to East of St Mary's View, Church Lane, 300 yards from this application. 15/509664/OUT 'Outline application for the erection of up to 26 residential dwellings with all matters reserved with the exception of access' planning application from November 2015, refused at Swale Borough Council Planning Committee in May 2016, decision notice July 2016, with the subsequent planning appeal dismissed in July 2016

The close proximity to this application makes the reasons for the inspector decision relevant:

Appeal Ref: APP/V2255/W/16/3157268 Decision date 6 March 2016 Application 15/509664/OUT

29. The site comes within the Iwade Arable Farmlands as identified by the Swale Landscape Character and Biodiversity Appraisal SPD. This area is characterised by very gently undulating rural landscapes that may traditionally have supported fruit growing. The SPD refers to the large arable/horticultural fields with regular field patterns and rectangular shapes predominating, and a sparse hedgerow pattern.

34. in my view the proposal would significantly harm the rural character and setting of Newington. This harm would not be mitigated by the landscape proposals. The proposal would therefore conflict with paragraph 17 of the National Planning Policy Framework, which amongst other matters states that regard should be had to the different roles and character of different areas, and that the intrinsic character and beauty of the countryside should be recognised.

36. I therefore conclude that the proposal would significantly harm the character and appearance of the surrounding area and would fail to comply with Local Plan policies E6 and E9. Loss of Agricultural Land

37. The appellant acknowledges that the proposal would result in the loss of an area of BMV land. Policy DM31 of the emerging local plan sets out that development on BMV land will only be permitted when there is an overriding need that cannot be met on land within the built up area boundaries, unless the site is

43. At the heart of the Framework is a presumption in favour of sustainable development. There are three dimensions to sustainable development, social, economic and environmental. These roles should not be undertaken in isolation, because they are mutually dependent. In social terms the proposal would provide market and affordable housing, within walking distance of a primary school, shops, services and public transport.

APPENDIX 1

44. Economically the proposal would provide employment during the construction period and would make a modest contribution towards household expenditure in the area. The developer contributions would provide mitigation against the adverse impacts of the proposal on local infrastructure and therefore are not an economic benefit of the proposal. In environmental terms, the proposal would result in the loss of BMV land, and would result in harm to the landscape and character of the area. Whilst the proposal includes mitigation measures these would not outweigh the environmental harm arising from the proposal

46. In the absence of a five year supply of housing, the Framework recognises the intrinsic beauty and character of the countryside as a core planning principle, and it should be given significant weight.

47. Whilst there is an existing shortfall in the five year housing land supply, it is likely that this will be resolved in the context of the emerging Local Plan and therefore the existing shortfall is likely to be of limited duration. In this context there is insufficient evidence to persuade me that the loss of the BMV land which comprises the appeal site is necessary to meet the housing needs of the Borough.

48. I have concluded above that the proposal would cause significant harm to the rural character and appearance of the site and the surrounding area and would also result in the loss of BMV land.

50. Taking everything into account, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.

The Eden Meadow development at Boyces Hill Newington(16/505861/OUT, for 9 dwellings) was rejected at the 2 February 2017 Swale Borough Council Planning Committee meeting on the advice of officers.

Extract from Officer report

- i. It is outside the defined urban boundaries of Newington
- ii. Newington is considered a less sustainable settlement (services, transport and access to employment)
- iii. There would be significant adverse impact on the landscape character, quality and value of the rural setting.
- iv. There would be significant, permanent and unnecessary loss of a large area of best and most versatile agricultural land.
- v. 'As such it is considered that the proposed development does not accord with the National Planning Policy Framework' (see report to 2 February meeting (10.1) for detail Newington Parish Council believes this was an accurate and balanced report.

The reasons for refusal, above, apply to the current proposal.

The subsequent Appeal (non-determination) was allowed. Decision date 31 March 2017
Appeal Ref: APP/V2255/W/16/3162806

7. The appeal site lies adjacent but outside the built-up area for Newington as defined in the "Swale Borough Local Plan 2008" (the LP). Saved Policy H2 states that residential development in the countryside will only be permitted where it meets one of the exceptions

APPENDIX 1

listed in Policies E6 and RC3. The provision of 9 open market dwellings does not fall within any of the exempted categories and consequently there would be conflict with the LP in this regard.

8. However, the LP is now time-expired and whilst this does not mean that it cannot carry weight, its policies need to be considered in relation to their consistency with the Framework.

The Local Plan, subsequently examined in summer 2017 and found to be sound is now valid and current; its policies apply fully.

The three most recent appeals to the planning inspectorate have been rejected on the grounds of being outside the urban boundary. (see: 148 High Street: PINS ref APP/V2255/W/17/3185369; 6 Ellen's Place: PINS ref APP/V2255/W/20/3250073; 132 High Street: PINS ref APP/V2255/W/20/3247555.

In each case the Inspector decisions were that any, then, deficit in Swale's current supply was not a reason to approve the applications.

b) 148 High Street, Newington (2 appeals)

An Appeal for 3 homes on a site south side of the A2 at 148 High Street, Newington, was dismissed by the Planning Inspectorate.

Decision date 17 January 2018 Appeal Ref: APP/V2255/W/17/3185369
Application 17/500946/FULL

4 ... the area in which permission is sought to construct three new dwellings lies beyond the settlement boundary. For planning purposes the site is therefore within the countryside.

6. Although the commercial activities to the east have encroached to a small degree into the area to the rear of the High Street, the remainder has retained its open, rural character. Any other existing buildings appear to be part of the agricultural activities that previously took place in the area and are typical of those that can be seen in the countryside. There is therefore a significant change of character between the development which fronts the High Street and the area to the south.

7. The largest of the proposed dwellings would be a clear incursion into the open, rural landscape and countryside to the south of the High Street.... the introduction of the proposal as a whole with its access road, garages, parking areas, gardens and associated residential paraphernalia, would significantly erode the open, rural character of the area.

8 ... Consequently, the development as a whole would represent an unacceptable incursion into the countryside which would be harmful to the area's open, rural character and appearance. This would be the case regardless of the precise details of the layout or design of the individual buildings.

9. I therefore conclude that the proposal would harm the character and appearance of the countryside, contrary to Policies ST3, CP3, CP4 and DM14 of the Local Plan, all of which seek to conserve and enhance the countryside.

10. Notwithstanding the fact that Newington is an accessible village with a significant range of services, the Local Plan has defined its built-up area boundary. The supporting text of Policy ST3 recognises that development opportunities within the village are limited for a variety of reasons, including poor air quality and the surrounding high quality agricultural land. Any

APPENDIX 1

residential development beyond the boundary established by the Local Plan would therefore conflict with the aim of providing homes in accordance with the Borough's identified and agreed settlement hierarchy.

15. I am aware that an Inspector granted planning permission for development of nine dwellings at Ellen's Place in March 2017. However, that scheme was assessed against different policies and when the Council was unable to demonstrate a five year housing land supply. The Inspector found that even though that scheme did not conform to the development plan, the adverse impacts did not significantly and demonstrably outweigh the benefits. The particular circumstances of that site and the policies which applied at the time therefore justified allowing the appeal.

A further appeal was also dismissed

Land rear of 148 High Street, Newington, ME9 7JH. Decision date 14 August 2020 Appeal Ref: APP/V2255/W/20/3245359 19/505596/FULL "conversion of former agricultural barn to a dwelling house including elderly dependent relative replacement structure, associated car parking and access driveway"

6. Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states "At locations in the countryside, outside the built-up areas boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities".

7. Given that the site's location would be outside the built-up area boundary of Newington, the appeal site would not be an appropriate location for residential development.

9. ... The appeal site is situated within the open land to the south of the High Street and exhibits all the attributes of the countryside.

10. The development would have a significantly urbanising effect upon the site and would substantially change its character. It would result in a diminution of the rural character and appearance of the area and negatively impact upon the tranquillity and beauty of the countryside.

12. Furthermore, the proposed development would have a harmful effect upon the character and appearance of the countryside. The proposal would, therefore, conflict with Policies ST1, ST3, DM9 and DM14 of the Local Plan. These policies seek, amongst other matters, development to support the aims of sustainable development, adhere to the Council's settlement strategy and to conserve and enhance the countryside.

17. At the heart of the National Planning Policy Framework (the Framework) is the presumption in favour of sustainable development.. Notwithstanding this, the appeal site lies outside the settlement boundary and is within the countryside, a location that would conflict with the aim of providing homes in accordance with the Borough's identified and agreed settlement hierarchy. Furthermore, I have found that the proposal would harm the rural character and appearance of the countryside.

19. I, therefore, conclude that the adverse impacts would significantly and demonstrably outweigh the moderate benefits of the scheme when considered against development plan

APPENDIX 1

policies and the Framework read as a whole. Consequently, the presumption in favour of sustainable development does not apply in this case.

c) 6 Ellen's Place, Boyces Hill, Newington
6 Ellen's Place, Boyces Hill, Newington, ME9 7JG 19/503203/FULL proposed erection of a chalet bungalow with detached garage; creation of new vehicular access and erection of a detached garage to serve no. 6.

Decision date 3 January 2021 Appeal Ref: APP/V2255/W/20/3250073

5. The new development referred to above, now named Eden Meadow, is a somewhat stark intrusion into the landscape, that was allowed on appeal. I have been supplied with a copy of the appeal decision notice; it is clear that the appeal was determined under earlier circumstances, in particular when the council was unable to demonstrate a 5-year supply of housing land to a significant extent, so that the Inspector decided that the development would contribute significantly in economic and social dimensions that outweighed the conflict with the development plan. I would add, though, that the Inspector stated that "it would introduce a substantial and largely self-contained enclave of development which, in landscape terms, would have little resonance with the more conventional and established arrangements along High Street".

7. Policy ST3 of the Swale Borough Local Plan 2017 (the Local Plan) sets out the settlement hierarchy within the Borough. It is the fifth element of this policy that is pertinent in this case: "5. At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities". Policy DM9 sets out exceptions under which new dwellings will be permitted within the countryside, none of which are applicable here.

8. These policies clearly place stringent restraints on new residential development within the countryside. In spite of the recent development of Eden Meadow, which currently is very raw and may soften as any landscaping scheme evolves, the appeal site is clearly within the countryside. These policies were adopted in 2017, before that latest version of the Nation Planning Policies Framework (the Framework) was published by the government, but the 2019 version continues to support local plan policies that protect the countryside. Framework chapter 15 sets out policies for conserving and enhancing the natural environment. Within this, paragraph 170, part b) is apposite in relation to this case: "170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;" NB: This is retained in the July 2021 version of the NPPF at Para 174 (b).

9. In respect of providing for housing, Framework chapter 5 deals with delivering a sufficient supply of homes. Within this chapter, under the heading Rural housing, are paragraphs 77 and 78. These state, as relevant here, "In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs, ..."; and, "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services". As far as the appeal proposal is concerned, whilst it may be in a

APPENDIX 1

reasonably sustainable location to access shops, public transport and community facilities, there is no local need, particular to the area, that has been identified.

Furthermore, it cannot be said to provide an opportunity for the village to grow and thrive, and it would not support local services to any material extent. The appeal site is not isolated, and therefore Framework paragraph 78 dealing with isolated homes is not relevant.

11. I should also mention that the council currently cannot demonstrate a 5-year housing land supply and the engagement of footnote 7 to Framework paragraph 11 should therefore be considered. However, the council has now been able to identify 4.6 years supply (as compared with the supply of 3.17 years quoted in the Inspector's decision that led to the Eden Meadow development), a shortfall of just 0.4 years.

Conclusions

20. I conclude that the proposed development would be contrary to Policy ST3 of the Swale Borough Local Plan 2017 in that, being outside the defined built-up area, it would harm the character, appearance, and intrinsic amenity value of the countryside.

d) Land to the rear of 132 High Street, Newington

Land to the rear of 132 High Street, Newington ME9 7JH 19/500029/FULL proposed 4 bedroom detached dwelling

Decision date 25 January 2021 Appeal Ref: APP/V2255/W/20/3247555 19/500029/FULL

13. The development would have a significantly urbanising effect upon the site and would substantially change its character. This would result in a diminution of the rural character and appearance of the area.

14. I have been directed to a residential development known as Eden Meadow and the New Farm car sales/workshop site where those developments project further south than that of the appeal site. However, I have not been provided the full details of those developments and when they were granted planning permission. It may be that they predated the revised 2019 National Planning Policy Framework (the Framework) and the 2017 Local Plan. If so, those developments would have related to a different development plan context where different considerations may have applied. I do not consider that those developments would justify either setting aside the current applicable development plan policies or the proposed development at this appeal site.

15. I conclude that the proposed development would not be an appropriate location for a new dwelling having regard to the spatial strategy of the development plan. Furthermore, the proposed development would have a harmful effect upon the character and appearance of the countryside. The proposal would, therefore, conflict with Policies ST1, ST3, DM9 and DM14 of the Local Plan. These policies seek, amongst other matters, to resist development in the countryside and to conserve and enhance the countryside.

18. Paragraph 213 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The intrinsic character and beauty of the countryside is recognised by the Framework. Development in rural areas is not precluded but the Framework indicates that great weight should be given to the benefits of using suitable sites within settlements for homes and therefore supports the general thrust of the Local Plan in terms of the location of housing. The appeal site lies adjacent to the built-up area boundary close to services, facilities and public transport and is not constrained

APPENDIX 1

by land designations, design, highway, or neighbour living conditions concerns. However, it is nevertheless outside the built-up area and where such development would be harmful to the character, appearance, and wider amenity value of the countryside.

20. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reason given, the appeal should not be allowed.

e) Land Off Jubilee Fields, Upchurch

We also refer to 19/501773/OUT 'Land Off Jubilee Fields Upchurch Kent ME9 7AQ', Outline application for residential development of 41no. two, three and four bedroom houses. This planning appeal in our neighbouring village was rejected in December 2020 (APP/V2255/W/20/3246265)

Even though, at the time, the '5YHLS is no more than 4.6 years and may be closer to 4 years. The shortfall is therefore of concern but cannot be said to be acute.' and the conclusion:

I have found that the proposal conflicts with the development plan as a whole. The other considerations in this case, namely the shortfall in 5YHLS and the provisions of the Framework, are of insufficient weight to outweigh that conflict. For this reason, the appeal is dismissed.

We believe that this decision should equally apply to this application in Newington.

Consistency of decision making is a fundamental principle of planning law and local authorities can only depart from it if they give cogent reasons for doing so <http://www.bailii.org/ew/cases/EWCA/Civ/2018/1519.html>

Bearing Fruits 2031: The Swale Borough Local Plan 2017 has defined its built-up area boundary and Policy ST3 of the Local Plan seeks to provide new homes in accordance with the settlement hierarchy for the Borough. Part 5 of Policy ST3 states

"At locations in the countryside, outside the built-up areas boundaries as shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities".

National planning policy does not support this application and it certainly does nothing to protect or enhance the setting.

5 Newington Air Quality Management Area

Most traffic from the proposed development would access the A2 via Church Lane and enter the Newington Air Quality Management area. This would undeniably have a cumulative effect on pollution and the health of residents of our village. The 124 homes recently completed at Watling Place already increases problems of air quality in Newington - one of the two reasons why the Pond Farm appeal was refused after the Planning Inquiry in November 2016

See Pond Farm Inquiry - Appeal decision date 9 January 2016 Appeal Ref: APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140 (subsequently upheld by the High Court and Court of Appeal):

APPENDIX 1

‘even after taking into account the proposed mitigation measures, the appeal proposals would have an adverse effect in air quality, particularly in the Newington and Rainham AQMAs (proposals conflict with NPPF paragraphs 120 and 124)’

25 homes may seem a modest proposal – but the cumulative effects of other recent developments, within Swale and also in the neighbouring authority of Medway which has permitted large developments in Rainham, will result in an increase in traffic flows through Newington. These combined cumulative developments already have a significant effect on the health of village residents, especially children and the elderly.

We are not aware of a separate report on

The Planning Statement deals with the topic in two paragraphs (5.6.1 and 5.6.2); the latter states:

‘Based on the assessment results, air quality is not considered a constraint to planning consent and the proposed development is considered suitable for residential use’ The assessment results do not seem to be in the public domain and we are unsure by whom the development is seen as suitable.

In the absence of this data we note the following:

a) We are unsure what, if any, data has been used to arrive at the conclusion that the site is suitable.

NB There were sporadic roadworks due to emergency gas repairs along the A2 through 2018 and into 2019. Newington High Street was closed completely for 5 weeks in summer 2019 for further emergency work to replace pipework. A larger 42 week scheme to replace all pipework began in September 2019 with one-way operation on different stretches since. The High Street was closed again in the early summer of 2020 to relocate a main valve and there have been several closures since due to emergencies and the new road junction to Watling Place. There was also lighter traffic due to the Covid-19 emergency. We therefore submit that air pollution readings over the past two years are not typical and cannot be considered as a baseline when estimating future pollution levels.

b) Air Quality Management Area in Newington.

Newington Parish Council is working with MidKent Environmental Services and and new, more accurate (PM10 and PM 2.5) monitoring equipment has recently be installed in the village centre. In addition to the vehicle numbers please consider also recent evidence of increased harm to those who have suffered Covid-19 from vehicle pollution. We note that the submitted Air Quality assessment proposes no significant mitigation measures.

c) Air quality concerns immediately East of Newington

The 20 April 2020 Environmental Protection Report informs the intention for the ... declaration of an AQMA in the Keycol Hill area in response to exceedances shown in 2019.

Therefore, I would recommend that a revised AQA is necessary to include 2019 data and the additional tubes to be included in the model. This is due to the significant air quality sensitivity that exists currently in the area and the need to address the worst case scenario.

Receptors that show moderate or substantial are R4; R5; R7; R14; R15. All receptors which show the highest impact on air quality are within the Newington AQMA.

There are therefore concerns about air pollution to the east and west of this proposed

APPENDIX 1

development, currently in open countryside, with AQMAs 300 yards and 2 miles west and the proposal for a new AQMA 1 mile to the east.

d) Air Quality concerns West of Newington – as traffic through Newington passes to and from Rainham. please see:

Letter from Head of Planning Medway Council to Planning Officer at Swale Borough Council 24 February 2017 in response to the application for 124 homes on the A2 – now Watling Place

Neither the submitted Air Quality Assessment, as amended, nor the letter from the applicant's Air Quality Consultants, has assessed the impact of the development on the Rainham Air Quality Management Area, which is located approximately 1.8 miles (2.9km) west of the application site.

Without evidence to the contrary and in the absence of an appropriate assessment Medway Council is unable to assess the full impact the development would have upon the Rainham Air Quality Management Area and as such, the development would be contrary to the provisions of paragraph 124 of the National Planning Policy Framework, the National Planning Practice Guidance in regard to Air Quality and Policy BNE24 of the Medway Local Plan 2003.

e) Relevant case history in Newington

The potential effect on air quality in Newington was one of the two reasons why the Pond Farm appeal was refused after the Planning Inquiry in November 2016 See Pond Farm Inquiry - Appeal decision date 9 January 2016 Appeal Ref: APP/V2255/W/15/3067553 and APP/V2255/W/16/3148140 (subsequently upheld by the High Court and Court of Appeal):

'even after taking into account the proposed mitigation measures, the appeal proposals would have an adverse effect in air quality, particularly in the Newington and Rainham AQMAs (proposals conflict with NPPF paragraphs 120 and 124)'

The Court of Appeal decision [EWHC 2768 (Admin)] 12 September 2019 (between Gladman Developments and Secretary of State for Communities and Local Government, Swale Borough Council & CPRE Kent

71. It was not unreasonable to think that the section 106 obligations represented the basis on which he was being invited to conclude that the financial contributions and proposed mitigation measures were adequate and would be effective. His conclusions show very clearly that he was unconvinced by both parts of the mitigation strategy – the financial contributions and the mitigation measures themselves.

77. As Dr Bowes submitted, an essential purpose of the air quality action plans was to improve air quality in the Air Quality Management Areas, which, as the air quality action plan for Newington made quite clear, might require planning permission to be refused where effective mitigation could not be secured. Proposed development such as this, judged likely to worsen air quality in a material way because the proposed mitigation had not been shown to be effective, was inevitably inconsistent with the air quality action plans.

As well as this planning inspectorate decision we cite the Planet Earth decision and the Coroner verdict following the tragic death of Ella Adoo-Kissi-Debrah in Lewisham. We wish to protect the health of residents, especially young children and the vulnerable elderly in our village.

APPENDIX 1

As the effect of air-quality is given such scant consideration in the applicant's documents we note there are no proposed mitigation measures.

f) Conditions recommended on a current planning application in Newington
We note that for the current planning application for 20 dwellings (20/505059/FULL: Willow Trees, 111 High Street, Newington ME9 7JJ, Highways England have commented comments on the effect of the application to the proposed improvements to A249 junctions:

It is therefore necessary, via the imposition of a condition, to ensure that there are no occupancies in this development prior to the completion of the junction improvements at M2 J5.

We are puzzled why there are no similar comments on this larger planning application a few hundred yards north- west of the High Street site above.

Newington Parish Council is concerned that, if/when improvements to the A249/M2J5 junction are made, this will result in increased traffic flow through the village, impacting through increased pollution within our AQMA

Planning Statement

5.6.1 Air Quality The site is located within the vicinity of an area designated by Swale Borough Council as experiencing elevated pollutant concentrations. Subsequently, there is potential to introduce future site users into an area of poor air quality as well as to cause air quality impacts at nearby sensitive locations.

5.6.2 Based on the assessment results, air quality is not considered a constraint to planning consent,

We note there are no proposed mitigation measures that would effectively prevent an increase in traffic pollution.

6 Transport

We believe the transport assessment does not present a true picture of services provided:

There is a poor train services and buses do not operate in the evening, Sundays or Bank Holidays. It should be noted that bus services are roughly hourly, with 'direct' routes alternating with those via other local villages and taking an hour to Chatham. On weekdays the last bus to stop at Newington is 18.36 and 18.29 on Saturdays. There is a three hour gap between the more direct service to Chatham at 06.31 (terminates at Medway Hospital) and the next at 09.11.

The Transport Statement states that services to London Victoria are provided hourly. From Monday to Friday there is a service to London Victoria at 05:50, 06.20, 06.49, 07:18, 07:50, 08:20, 08:48 and 09:20 (also 06.31 and 08.01 to Cannon Street). Trains are then hourly until schools close when there are 2 additional trains at 16.52 (London-bound) and 16:36 (Doverbound), hourly thereafter and hourly at weekends.

Therefore it is unclear how this Transport Statement meets the requirements of Paragraph 110 of the NPPF "Applications for development should:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality

APPENDIX 1

public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.”

We question the effectiveness of measures proposed to encourage cycling and walking (welcome packs etc).

There is nothing here to address the needs of those with disabilities of reduced mobility; indeed, a development outside the village built-up area is very unhelpful to these.

7 The five year supply

We understand that Swale currently has a 4.6 year supply (ie an annual shortfall of 310 homes) and would submit that this is close enough for the harm from this proposed development to outweigh the need.

We repeat the December 2020 planning appeal decision

19/501773/OUT Land Off Jubilee Fields Upchurch (APP/V2255/W/20/3246265)

I have found that the proposal conflicts with the development plan as a whole. The other considerations in this case, namely the shortfall in 5YHLS and the provisions of the Framework, are of insufficient weight to outweigh that conflict. For this reason, the appeal is dismissed.

The principle of consistency within planning decisions requires that a previous decision is capable of being a material consideration in a subsequent similar or related decision.

8 Not a Sustainable development

The proposal does not meet the definition of sustainable development in rural areas

“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

It does not provide housing for agricultural workers in the neighbouring fields and so is contrary to the principle.

Para 108 of the NPPF - In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

APPENDIX 1

This site was not put forward in the call for sites and has not been recommended for allocation in the draft plan. Indeed the Swale Local Plan Panel on 29 October 2020 followed the officer recommendation that no sites in Newington should be progressed for inclusion as allocations in the Local Plan Review. This was accepted unanimously at full council.

The Transport Statement does not actually state how appropriate opportunities to promote sustainable transport modes have been– or can be – taken up, given the type of development and its location.

The December 2020 planning appeal decision 19/501773/OUT Land Off Jubilee Fields Upchurch (APP/V/2255/W/20/3246265) there is no specific evidence to suggest that the need for affordable homes in Upchurch is particularly pressing. In the short term, the school would face difficulties accommodating the extra 11 children

We believe the same argument applies to Newington.

The reference to electric vehicle charging points is a requirement of all local applications and so a token gesture here. There is no mention of heat source pumps, so presumably these new homes will rely on polluting gas boilers; we also regret the absence of solar panels; these omissions presumably on grounds of cost.

The proposed housing development outside the established built-up area of the village cannot be described as ‘sustainable development’ as defined by the NPPF. We believe residents would drive to schools, doctors, shops and the better rail services from Rainham and Sittingbourne; that they would choose not to take the 10 minute walk to access the bus service which is very limited in terms of route and regularity; therefore increasing pollution further.

The proposal does nothing to improve the economy of Newington, there are no obvious social benefits and clear environmental harm through increased pollution and the loss of farmland.

Newington Parish Council requests that, in the event of the planning officer recommending approval, this response be forwarded to all members of planning committee as well as the customary summary in the officer report.

APPENDIX 1

Appendix 1:
Properties with planning permission in Newington since 2011

Known As	Properties Count	Decision Issued Date	Planning Reference
Playstool Close	4	Feb-11	SW/10/1630
Vicarage Court	10	Jul-11	SW/10/1629
Hidden Mews	4	Dec-12	SW/12/0637
Total 2011 pre 2014	18		
School Lane (Parsonage Farm)	14	May-15	SW/14/0486
Tractor shed (Bull Lane)	1	Oct-15	15/504706
Church Lane	1	Oct-16	16/505663
Former Workingmen's Club	11	Jul-17	16/506166
Chesley Oast	5	Aug-17	16/506159
Eden Meadow	9	Sep-17	16/505861
High Oak Hill (Harbex)	6	Nov-17	17/504376
The Willows (?9 London Road)	1	Dec-17	17/503349
Land N. of the High Street (Persimmon)	124	Apr-18	60/501266
Callaways Lane	1	Sep-18	18/503564
The Tracies	5	May-19	18/505315
Car Wash (studio flat)	1	Jul-19	17/504813
Cromas (Land Adjacent)	1	Jan-20	19/506356
Total 2014 to 2020 (March)	180		
Overall Total Since 2011	198		

Further comment:

Application: 21/504028/FULL Land At School Lane, Newington ME9 7JU
 Proposal: Erection of 25no. residential dwellings and the provision of a 20 space staff car park and 20 space pupil pick-up/drop-off area for Newington C of E Primary School, together with associated access, landscaping, drainage and infrastructure works.

These comments are in addition to those previously submitted by Newington Parish Council. Newington Parish Council has commissioned an independent report from the University of Kent Centre for Health Service Studies to examine the air quality reports that form part of each of the four significant planning applications current in the Village and the data available from the air quality monitoring devices in Newington. The report is on the Midkent planning portal.

In summary this says, of the Land at School Lane report submitted by the applicant:

4.3.1. Consideration of committed development is incomplete

72. The AQA for School Lane [3] does not include 20/505059/FULL (Willow Trees), Eden Meadow (20/501475/FULL), or 21/505722/OUT (128 High Street) as part of the proposed development scenario.

73. Both Willow Trees and Eden Meadow were submitted prior to School Lane so these could have been included. 128 High Street was submitted after School Lane so it is not unusual for this to be missing. However, it is still worth noting that it is not considered.

4.3.2. Initial model does not meet minimum requirements for model adjustment

APPENDIX 1

75. Out of 15 locations, 11 (73%) have an error of 25% or more. The model systematically under-predicts (every location), with an average underprediction of 11.25 µg/m³

76. Following the same argument outlined for Eden Meadows given above under the same subsection heading “Initial model does not meet minimum requirements for model adjustment”, the model inputs should have been re-examined and the model re-ran.

4.3.3. Model uncertainty statistics not reported

77. It is usual to report uncertainty statistics concerning the final model, at least RMSE. This has not been done.

78. The pre-adjustment model has weak correlation, an RMSE in excess of 25% of the objective reference of 40 µg/m³ and a poor fractional bias.

80. As we have already outlined, the initial model should not have proceeded to adjustment via a factor without revision and re-execution.

In conclusion

93. It is not possible to conclude that any of these models are an accurate representation of reality

4. each of them displays varying degrees of flaw in air quality modelling and model uncertainty which needs addressing

5. The predictions computed for each of the AQAs for these developments are inconsistent

7. Proposed mitigation for cumulative impact are simply vague suggestions with not reasoning or rationale provided as to their impact of implementation feasibility

8. Current levels for NO₂, PM_{2.5} and PM₁₀ within Newington exceed WHO guidelines for health.

9. The Newington AQMA has exceed NO₂ objectives in the last reliable year

10. the planning applications should be rejected on the grounds of air quality at this time

This shows the likely damage to the health of Newington residents from the cumulative effect of further housing development in the village.

Please see the independent report from the University of Kent Centre for Health Service Studies which examines the air quality reports that form part of each of the four significant planning applications current in the Village and the data available from the air quality monitoring devices in Newington.

Newington Parish Council requests that this response be forwarded to all members of planning committee as well as the customary summary in the officer report.

PLANNING COMMITTEE – 13 OCTOBER 2022**PART 3**

Report of the Head of Planning

PART 3Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 22/503662/FULL		
APPLICATION PROPOSAL Demolition of existing rear extension and erection of single storey extensions to north and west elevations.		
ADDRESS The Gate House Lees Court Road Sheldwich Faversham Kent ME13 0ED		
RECOMMENDATION Refuse		
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Member.		
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Sheldwich	APPLICANT Wilson AGENT Edgington Architectural Services Ltd
DECISION DUE DATE 30/09/22	PUBLICITY EXPIRY DATE 08/09/22	CASE OFFICER Claire Attaway

Planning History

20/503052/FULL

Demolition of existing rear extension and erection of single storey extensions to north and west elevations along with renovation of existing property externally and internally. (Resubmission of 20/501720/FULL)

Approved Decision Date: 01.09.2020

20/501720/FULL

Demolition of existing rear extension and removal of chimney stacks, erection of single storey side and rear extension and internal alterations.

Withdrawn Decision Date: 21.05.2020

15/506719/FULL

Demolition of existing side extension and replacement with new single storey side extension with pitched roof as amended by drawing 004 rev A 27.11.15

Approved Decision Date: 15.12.2015

1. DESCRIPTION OF SITE

- 1.1 This property is a modest and attractive single storey, double fronted former lodge house (one of a pair of such buildings facing each other) located outside the built-up area boundary of Sheldwich Lees, and within both the Sheldwich Conservation area and the Kent Downs Area of Outstanding Natural Beauty (AONB).

- 1.2 It is accessible only by a track skirting around the village green from Lees Court Road. There are several listed buildings close to the property, including one immediately to the north. Lees Court Park situated to the east of the village green is a Grade II registered Historic Park and Garden. Public Bridleway ZR402 runs in-between the two former lodge houses and joins Public Footpath ZR403 that runs alongside the village green.
- 1.3 The elevations of the property are inlaid with knapped flint and stone quoining adorns the corners and window surrounds. The slate roof has a fully hipped form, and fenestration includes oversized timber casement windows. This two-bedroom property has been altered in the past with a porch and poor-quality side extensions. Nevertheless, the property is considered to be a non-designated heritage asset, within the terms of paragraph 203 of the National Planning Policy Framework (NPPF), which states that:

The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 1.4 The property is also located within the Sheldwich Conservation Area. The Gate House is therefore a property of some historic interest, set in a very sensitive rural location. Its special features and historic significance make it a strong candidate for local heritage listing. The listing criteria for the Local Heritage List has now been through the required public consultation and has been recommended by Cabinet for adoption.
- 1.5 The planning history for the site begins in 2015, when planning permission (15/506719/FULL) was granted to demolish the side extension and replace with a modestly sized single storey side extension. That extension was never built.
- 1.6 In April 2020, planning permission (20/501720/FULL) was sought for a much larger side extension that would have effectively doubled its footprint. The extension was considered oversized and harmful to the character of the property. That application was subsequently withdrawn, and the applicants sought pre-application advice before submitting a revised scheme.
- 1.7 In July 2020, a revised application (20/503052/FULL) for a modestly sized extension was approved. The approved extension has not been built but would have provided an additional bedroom with ensuite and more ground floor living space. That extension would have been built in red stock brickwork with quoin detailing and a pitched roof covered in slate to match the existing building.

2. PROPOSAL

- 2.1 The current proposal is to demolish the modern side extension and replace with a large single storey side and rear extension to provide an additional two bedrooms, both with an ensuite, and additional ground floor living space.
- 2.2 The existing building is rectangular shaped, measuring approximately 11.5m x 8m. The proposed extension would be L shaped in form, wrapping around two sides of the existing building. The side element would be set back from the front wall by 6.5m and project 4.3m

sideways. It will project 11.5m to the rear and extend across almost the entire width of the building.

- 2.3 The external walls of the extension would be clad in black horizontal featheredged timber weatherboarding above a red brick plinth with a pitched roof covered in matching slate tiles. All new windows will be timber framed casement windows with slimline double-glazed units, and the side entrance door will be made of solid timber.
- 2.4 The application is accompanied by a Design and Access Statement (DAS), extracts from which are as follows:

Whilst planning permission was granted in September 2020, the applicant has only made the alterations to the existing dwelling as circumstances changed with the arrival of twins in 2021. This being the case the applicant has had to rethink what they need in terms of accommodation with the family expanding more than expected.

They are committing to staying in the village and are making this into their lifetime family home and so need additional accommodation so that it can remain so.

The external materials for the extension have also been discussed, in particular the use of flint blocks or loose flints to the external walls. It is felt that the continuation of same materials is perhaps not best suited as there will be a clear difference in appearance between the existing flintwork and new. A change in material/cladding would provide a clear difference between the existing dwelling and the extended areas.

Like with the original approval, the existing extension is to be demolished and the new extension is to be a wrap around on the north and west elevations, with the roof form similar to the approved. The roof form of the original host dwelling is maintained so that there is a clear definition between the existing and new elements.

The increase in footprint area is more than the approved scheme but has been reduced in area from the original scheme that was withdrawn.

The original building was empty for a number of years and had fallen into a greater state of disrepair. The applicant has already renovated and modernised the cottage both internally and externally as part of the original approval and is making progress with the use of the existing curtilage. These proposals will provide the necessary accommodation to ensure that while the family grows, the property will have the space needed to be sympathetic to the character of the host dwelling.

3. SUMMARY INFORMATION

	Original Cottage	Approved (15/506719/FULL)	Withdrawn (20/501720/FULL)	Approved (20/503052/FULL)	Current Proposal (21/505854/FULL)
Total floorspace (m ²)	92	113	212	163	194
Total % increase in floorspace	-	23	130	77	110

4. PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty KENT DOWNS

Conservation Area Sheldwich

5. POLICY AND CONSIDERATIONS

5.1 The National Planning Policy Framework (NPPF): Paragraphs 176; 202; 203: 206 and 207.

Paragraph 176 requires that:

Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues... The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.”

5.2 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017:

Policy ST3 The Swale settlement strategy

Policy CP4 Requiring good design

Policy CP8 Conserving and enhancing the historic environment

Policy DM7 Vehicle parking

Policy DM11 Extensions to, and replacement of, dwellings in the rural area

Policy DM14 General Development Criteria

Policy DM16 Alterations and extensions

Policy DM24 Conserving and enhancing valued landscapes:

Policy DM26 Rural lanes

Policy DM32 Development involving listed buildings

Policy DM33 Development affecting a conservation area

Policy DM35 Historic parks and gardens

5.3 Policy DM11 deals with extensions to dwellings in the rural area. This states that:

“The Council will permit extensions (taking into account any previous additions undertaken) to existing dwellings in the rural areas where they are of an appropriate scale, mass, and appearance in relation to the location.”

The relevant sections of the supporting text to this policy are as follows:

“... The Council is concerned that large extensions or replacement dwellings can harm the character of the rural area. For these reasons, and where planning permission is required, Policy DM11 seeks to control the extensions to, and replacement of, dwellings in the rural areas. The Council’s existing Supplementary Planning Guidance Designing an Extension: A Guide for Householders is a material consideration to the determination of some proposals. Planning permission will only be granted in cases proposing modest extensions (taking into account any previous additions undertaken) of an appropriate scale, mass and appearance to the location.”

5.4 Policy DM24 seeks to prevent the AONB from harmful development, stating that

“The value, character, amenity and tranquillity of the Borough’s landscapes will be protected, enhanced and, where appropriate, managed.

Within the boundaries of designated landscape areas, as shown on the Proposals Map, together with their settings, the status given to their protection, enhancement and management in development decisions will be equal with the significance of their landscape value as follows:

1. *The Kent Downs Area of Outstanding Natural Beauty (AONB) is a nationally designated site and as such permission for major developments should be refused unless exceptional circumstances prevail as defined by national planning policy. Planning permission for any proposal within the AONB will only be granted subject to it:*
 1. *conserving and enhancing the special qualities and distinctive character of the AONB in accordance with national planning policy;*
 2. *furthering the delivery of the AONB’s Management Plan, having regard to its supporting guidance documents;*
 3. *minimising the impact of individual proposals and their cumulative effect on the AONB and its setting, mitigating any detrimental effects, including, where appropriate, improving any damaged landscapes relating to the proposal; and*
 4. *being appropriate to the economic, social and environmental wellbeing of the area or being desirable for the understanding and enjoyment of the area.”*

5.5 Policy DM33 states

Development (including changes of use and the demolition of unlisted buildings or other structures) within, affecting the setting of, or views into and out of a conservation area, will preserve or enhance all features that contribute positively to the area’s special character or appearance. The Borough Council expects development proposals to:

1. *Respond positively to its conservation area appraisals where these have been prepared;*
2. *Retain the layout, form of streets, spaces, means of enclosure and buildings, and pay special attention to the use of detail and materials, surfaces, landform, vegetation and land use;*
3. *Remove features that detract from the character of the area and reinstate those that would enhance it; and*
4. *Retain unlisted buildings or other structures that make, or could make, a positive contribution to the character or appearance of the area.*

The relevant section of the supporting text to this policy is as follows:

New development within, or adjacent to, a conservation area is expected to be both of an appropriate use, of a very high standard of design, and to respond positively to the grain of the historic area by preserving or enhancing the character or appearance of the place.

5.6 Paragraph 3.1 of Supplementary Planning Guidance (SPG) entitled ‘Designing an Extension – A Guide for Householders’ states:

“Traditionally, extensions to buildings are smaller and less significant than the main building. Over-large extensions can destroy the appearance of the house and have a serious effect upon the area as a whole.”

Paragraph 3.3 of the SPG states that:

“In the countryside, scale is of particular importance. In rural areas, policies are designed to maintain their attractive character and the extension of a small cottage to create a large house will normally be resisted. The Council will not normally approve an extension to a dwelling in a rural area if it results in an increase of more than 60% of the property’s original floorspace.”

- 5.7 Supplementary Planning Guidance (SPG) recommends 3+ parking spaces for a four-bedroom house in a rural location.
- 5.8 The Swale Landscape Character and Biodiversity Appraisal (SPD 2011) designates the site within the Sheldwich and Leaveland Farmlands. It describes the site as a mixed landscape of gently undulating slopes with soils of clay with flint and steep dry chalk valleys, an arable landscape with mature hedgerows along lanes, small scale woodlands and isolated traditional villages, hamlets, scattered groups of cottages and isolated farmsteads. The overall condition of the landscape and landscape sensitivity is rated moderate. The guidelines focus on conserving the landscape and creating a new landscape structure.
- 5.9 The relevant principles of the Kent Downs AONB Management Plan are as follows:

SD3 Ensure that development and changes to land use and land management cumulatively conserve and enhance the character and qualities of the Kent Downs AONB rather than detracting from it.

SD8 Ensure proposals, projects and programmes do not negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the AONB.

LLC1 The protection, conservation and enhancement of special characteristics and qualities, natural beauty and landscape character of the Kent Downs AONB will be supported and pursued.

6. LOCAL REPRESENTATIONS

- 6.1 Nine representations of support were received, and their comments can be summarised as follows:
- The renovations to date have preserved the property for future generations, and enhanced the local area – the new development would do more of the same
 - It is a sympathetic addition to help make the property suitable for a growing family enabling them to stay in the village
 - It is fantastic to see this property returned to habitable dwelling with such a high level of build and finish quality
 - I strongly support the application to expand the property to make it fit for modern living
 - The Sheldwich community desperately needs a diverse mix of residents, by allowing these improvements, the planning process will be helping to ensure that families can continue to make Sheldwich home and contribute to the community

- The design is in keeping with both the scale of the existing dwelling as well as the overall plot and neighbouring properties
- We need to be encouraging young families into our villages and this requires adequately sized houses
- It will improve this lovely setting in our quaint village
- Its been great to see the once dilapidated cottage restored and I'm sure the proposed extension will only add to its charm

7. CONSULTATIONS

7.1 Sheldwich Badlesmere and Leaveland Parish Council commented as follows

“Sheldwich, Badlesmere and Leaveland Parish Council fully support this application and believe it would be beneficial to the Parish.”

7.2 The KCC Public Rights of Way Officer responded to say he had no comments to make and suggested some informatives.

8. BACKGROUND PAPERS AND PLANS

8.1 Application papers and drawings referring to application reference 22/503662/FULL.

9. APPRAISAL

9.1 This property is a two-bedroom detached dwelling located within the village conservation area and within the Kent Downs AONB. There are several listed buildings close to the property, including one immediately adjacent to the site. Lees Court Park situated to the east of the village green is a Grade II registered Historic Park and Garden. This property is therefore situated in a particularly sensitive location. I note the support from the Parish Council but, as the property is located within a conservation area there is a statutory duty on the Council to ensure that changes are not harmful.

Impact on the character and appearance of the conservation area, and status of the building as a non-designated heritage asset

9.2 Section 72(1) of The Town and Country Planning (Conservation and Listed Buildings Act) 1990 places a statutory duty on the Local Planning Authority to pay special attention to the desirability of preserving and enhancing the character and appearance of conservation areas. Policy DM33 of the adopted Local Plan sets out that new development within a conservation area should be sensitive to the special character of the area and of a high standard of design; Policy DM33 is consistent with the requirements of statute as set out above.

9.3 As indicated in the table produced at paragraph 3, the proposed extension, which effectively wraps around two sides of the modest lodge building, and replaces the existing poor quality side extension, is smaller than the first 2020 application (which was withdrawn), but larger than the second approved scheme from 2020. In the case of the latter, that 2020 scheme would have increased the volume of the cottage by 77%, whilst the current proposal would increase the volume by 110% thereby more than doubling its original size. Whilst it might be

said that using weatherboarding to distinguish the new from the original (which is faced primarily in knapped flintwork and stone) would assist in helping to appreciate and understand the evolution of the building, this otherwise potentially beneficial design approach is heavily compromised and arguably lost in translation by the sheer scale of the proposed extension which would dominate the existing form of the lodge building, in the process not only confusing an understanding of the building, but also destroying the lodge character of the building, as a non-designated heritage asset, which in large part is derived from its diminutive scale (reflecting its historic ancillary function) and its still remaining strong similarity (including in terms of scale) to the twin lodge house directly opposite, both fronting onto the aforementioned public right of way.

- 9.4 The proposed extension to the application property would not only harm its intrinsic modest lodge character and unbalance the important architectural composition provided by the two (historically matching) lodge houses either side of the access drive to Lords (House) and the associated farm to the west, but given the prominence and clear public visibility of the property in the Sheldwich Conservation Area, the proposed changes, which would impact negatively on the application property, would in turn, fail to either preserve or enhance the character and appearance of the conservation area at the location in question, and the positive contribution that the pair of lodge houses currently make to the conservation area would be notably compromised.

Impact on the character and appearance of the dwelling, the countryside and the AONB

- 9.5 The application site lies within the open countryside and the AONB, where policies ST3, DM11 and DM24 seek to restrain large scale development in the interests of countryside conservation and sustainability. Planning permission has already been granted to extend the property – in a simply designed modest way that conserves the apparent scale of the cottage.
- 9.6 Policy DM11 does provide for some limited development outside settlements and the accompanying text refers to the Council's SPG 'Designing an Extension – A Guide for Householders' which suggests that modest can be defined up to a 60% increase in floorspace from the original. This policy guidance was published by the Council to address the issue of rural cottages being extended to large dwellings, reducing the supply of smaller, more affordable dwellings in the rural area, and harming the character of the countryside. Therefore, what falls to be considered here is whether the extensions now being proposed are sufficiently modest in scale and form to prevent harm to the character of the cottage, to that of the countryside and to the natural beauty of the AONB.
- 9.7 Whilst the proposal has indeed been modified from the previously withdrawn planning application, the current scheme is still too large in relation to the scale of the building. It will elongate the building very considerably and is disproportionately oversized in relation to the host property. I therefore consider that the extensions now proposed will have a transformative effect on the apparent scale and character of the existing cottage, resulting in visual harm to the character and appearance of the countryside, and the natural beauty of the AONB.
- 9.8 The DAS argues that the proposal is similar to that approved, with the existing extension being demolished and the new extension wrapping around the north and west elevations, whilst maintaining the roof form of the original host dwelling, stating that

The existing building is of single storey construction with pitched roofs all round, and is not imposing whatsoever, with eaves set at window/door head height and a relatively small scale roofscape, where the roof is not of great prominence.

The proposals will maintain the same eaves and ridge heights to match the existing and so do not impact on the scale in terms of the buildings height, the only impact of scale relates to footprint.

- 9.9 Despite the extensions being designed with the same roof height, with the additions now being proposed, it would result in a building being more than double the size of the original cottage. In my view that cannot be considered as a modest addition, and it would be contrary to the advice given in the SPG.
- 9.10 The NPPF gives great weight to conserving landscape beauty and scenic value in an AONB. This is reflected in policy DM24 of the adopted Local Plan. The DAS at section 5.06 states that the site is well screened with established hedgerows whereby the roof is the only part of the building that is clearly visible. However, in my view, the significant increase in floorspace above the 60% guideline will seriously affect the apparent scale of the cottage in a manner which would harm the character of the property and its rural surroundings.

Residential Amenity

- 9.11 The property is set on a generously sized plot and directly opposite is Lords Lodge to the south, and The Old Cottage, a Grade II listed building to the north. There is no identifiable harm regarding the impact of the proposals upon the amenity of the occupiers of these neighbouring properties.

Other Matters

- 9.12 I note there is local support for the proposal because it will allow the occupants to remain in their house and contribute to the community. However, I do not consider these reasons justify permitting permanent extensions to a rural property that are considered harmful and detrimental to visual amenities, particularly for a site located within a conservation area and an AONB.

10. CONCLUSION

- 10.1 This planning application seeks permission for a substantial side and rear extension to a small dwelling located within the countryside and within a rural conservation area. I believe the alterations will significantly alter the scale and character of the original cottage, as an identified non-designated heritage asset, which would be harmful to its character and to the appearance and amenity of the countryside, being situated within an Area of Outstanding Natural Beauty, and to the character and appearance of the conservation area. Whilst in terms of the National Planning Policy Framework (NPPF), the proposed development would result in a level of impact which would fall within the 'less than substantial' harm category, the public benefit which we are required to weigh this harm against (in accordance with paragraph 202) is negligible, and as such, I therefore recommend that the application should be refused.

11. RECOMMENDATION

REFUSE for the following reasons:

REASONS

- (1) The proposed extensions would result in a considerable visual increase in scale, producing an adverse visual impact upon the character of the cottage (and its pair), and on the natural beauty of the Kent Downs Area of Outstanding Natural Beauty. As such the proposal is contrary to policies ST3, CP4, DM11, DM14, DM16, DM24 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan and the advice given in the Council's Supplementary Planning Guidance entitled 'Designing an Extension – A Guide for Householders' which is a material planning consideration and is referred to as such in paragraph 7.3.28 of the adopted Bearing Fruits 2031: The Swale Borough Local Plan 2017.
- (2) The proposed development, by virtue of its design and scale would create development which will adversely affect the character and appearance of the cottage – a non-designated heritage asset - and views in and out of the Sheldwich Conservation area. These effects would give rise to an impact of less than substantial harm, against which only limited public benefit can be demonstrated in mitigation, meaning that the harm should not be accepted. As such the proposal represents development contrary to policies of CP4, CP8, DM14 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017, together with the provisions of paragraph 203 of the National Planning Policy Framework 2021.

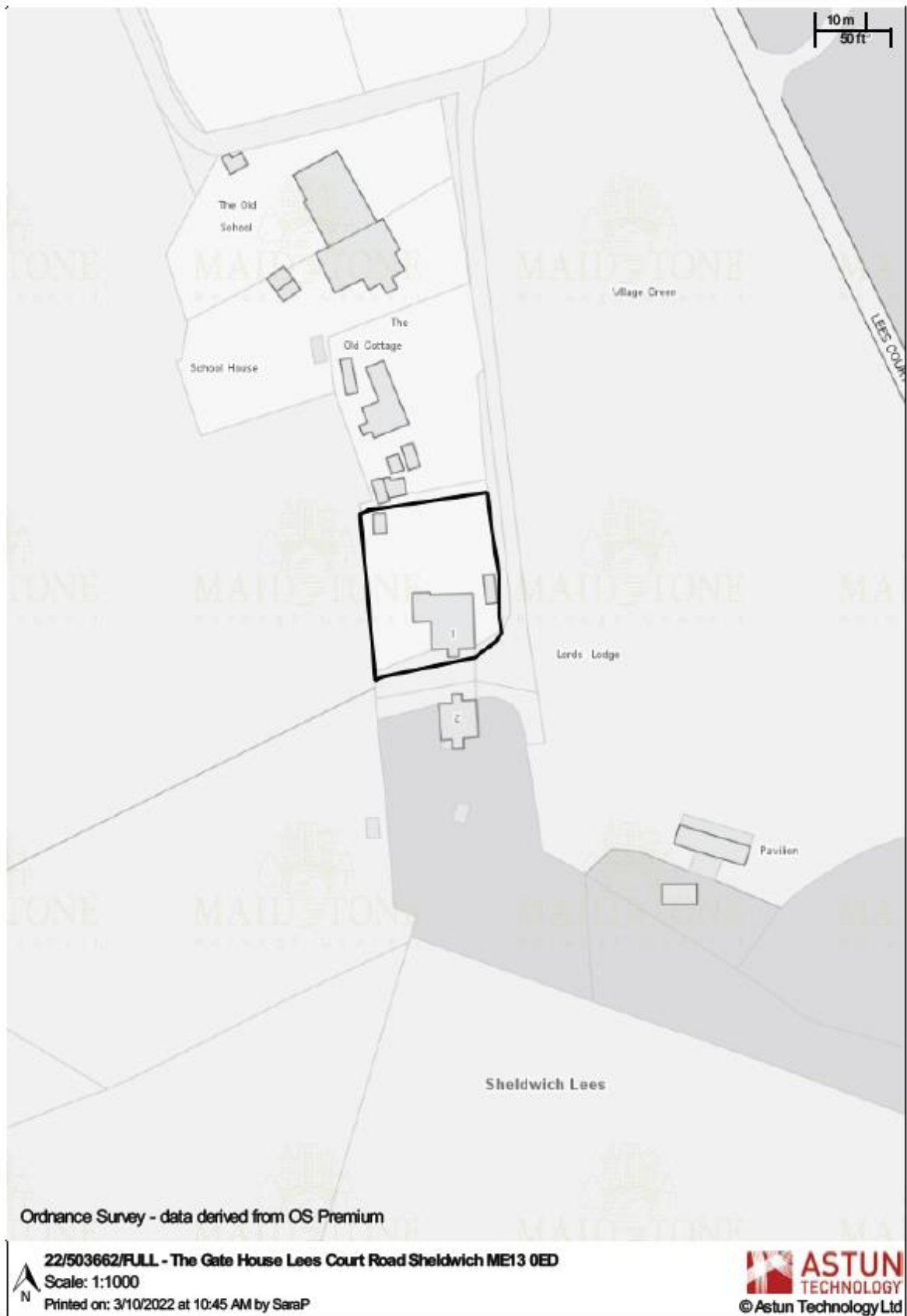
The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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.



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3.2 REFERENCE NO - 20/503636/FULL**APPLICATION PROPOSAL**

Change of use of part of the ground floor of the former Public House to provide 1 no. flexible Retail space (A1, A3 or A4). Change of use of the rest of former Public House and erection of a two-storey rear extension to provide 5 no. 2 bed, 14 no. 1 bed and 1 no. studio apartment. Erection of a two-storey block of flats consisting of 7 no. 2 bed and 1 no. 1 bed apartments. With associated parking, access arrangements and landscaping.

ADDRESS The Former Kemsley Arms Public House The Square Sittingbourne Kent ME10 2SL

RECOMMENDATION Refusal

SUMMARY OF REASONS FOR RECOMMENDATION

The viability of the proposed development has been assessed as part of the consideration of the application, with the evidence tested by the Council's independent viability consultant. In summary the independent assessment undertaken has concluded that the proposed scheme would generate a negative residual land value, with or without S.106 contributions. If the requested developer contributions of £171,975.94 were sought (noting this omits the affordable housing commuted sum), this generates a residual land value of -£818,218.60. If the exercise is repeated with no S.106 contributions sought, then the negative residual land value reduces to -£631,804. The independent consultant has advised that this would not be considered to be an economically viable level of land value as required by the National Planning Policy Framework. On the basis of local and national policies in relation to viability I give this weight in the decision-making process.

When assessed against paragraph 11 of the NPPF the main benefits of the scheme would be considered to derive from the provision of additional residential dwellings in a sustainable location and the contribution to the Council's 5-year housing land supply. As set out above the proposal is considered to meet the environmental objectives with moderate weight attached to this, and there would be a degree of economic benefits from the creation of a retail unit with employment opportunities, and short term economic benefits during construction. There would also be some benefit arising from the redevelopment of the Kemsley Arms building.

However, these benefits have to be weighed against the failure of the proposal to provide contributions towards services and infrastructure, in respect of primary and secondary education; community learning; youth services; libraries; social care; NHS healthcare; highway improvements and refuse bins. The failure to provide contributions for these facilities and the significant harm that this would cause should in my view be given very significant weight in the decision-making process. The proposal would also fail to meet the aims of policy ST5 (Sittingbourne Area Strategy), specifically criteria 7 which seeks to "*reduce levels of deprivation in the most deprived wards and facilitate as required, increased capacity in infrastructure and services*" from the lack of developer contributions. The harm that would be caused in this case would be substantial and the resultant impact of the development upon specifically identified local services and infrastructure significant and unacceptable. The proposal is therefore considered to fail to meet the social objectives of the NPPF which is a considered to result in significant harm.

For the reasons given above the development is not considered to meet the social objective of sustainable development, and this issue is fundamental and would significantly and demonstrably outweigh the identified benefits. The proposal is considered unacceptable and

should be refused for the reasons outlined above.		
REASON FOR REFERRAL TO COMMITTEE Called in by Councillor Carnell, and Councillor Dendor		
WARD Kemsley	PARISH/TOWN COUNCIL	APPLICANT UK Land Investors Ltd AGENT Planit Wright
DECISION DUE DATE 03/03/21	PUBLICITY EXPIRY DATE 14/07/21	CASE OFFICER Corinna Griffiths

Planning History

14/502848/FULL

Change of use of upper floors and new rear extension to former public house to create 7 residential units (6 x1 bed and 1 x 2 bed), together with the change of use of ground floor to 346 sq m flexible retail use, (classes A1, A3 or A4). Development of additional 11 residential units (8 x 2 bed and 3 x 3 bed) to the rear of the Kemsley Arms, together with associated landscape and access arrangements, including 18 car parking spaces

Pending Decision

This application has a committee resolution for approval, however the S.106 agreement was never signed and therefore the decision was not issued.

SW/08/0178

Scheme for provision of garden, parking and smoking area.

Grant of Conditional PP Decision Date: 08.04.2008

SW/87/0275

EXTENSION TO KITCHEN OMISSION OF GARDEN BAR ALTERATIONS TO CAR PARK AND PROVISION OF EXTERNAL BLINDS (AMENDMENTS TO SW/86/1040)

Approved pre 1990 Decision Date: 27.04.1987

SW/86/1040

EXTENSION ALTERATION AND CHANGE OF USE FROM CLUB TO PUBLIC HOUSE

Approved pre 1990 Decision Date: 29.10.1986

1. DESCRIPTION OF SITE

1.1 The application site comprises the former Kemsley Arms public house and its associated parking area.

1.2 The Kemsley Arms is a large, detached building situated on The Square at the junction of Grovehurst Avenue, Ridham Avenue and Menin Road on a site measuring approximately 0.4 hectares. It is a good example of 18th century Queen Anne revivalist architecture, with keystones above tall windows; a central clock tower; and large, curved mouldings on the frontage.

1.3 Due to local land levels, it is highly prominent in views when approaching Kemsley from Grovehurst Road to the south, and it is an important local building in terms of its design,

placement and history (having been constructed as a central social building when Kemsley was originally built as a 'garden village' for mill workers).

- 1.4 The building is specifically referred to in Nikolaus Pevsner's "The Buildings of England," which is considered an important text on architectural history:

"A windswept model village almost on the marshes, reached up an avenue of trees. Formal layout, especially the square, with a prim neo-Queen Anne social centre on its N side designed more to be the "house" of the village than a building of the institute class. Neo-Georgian tendencies... Built in 1925-6 by Adams, Thomson & Fry. That means the young Maxwell Fry. It is a surprise to find the future partner of Gropius here so vigorously swimming against the tide of international modernism."

- 1.5 Due to its design and local historical importance the Council considers the building to be a non-designated heritage asset.
- 1.6 The building was originally used as a social club, but planning permission was granted for use as a public house in 1986. It ceased to be used as a pub several years ago and operated as an Indian restaurant until it closed permanently approximately 9 years ago (in 2013). Since that time the building has been vacant and boarded up, and is falling into disrepair. The roof of the building is open in some places with weather damage present in both the exterior and interior of the building.
- 1.7 An access road to the east of the building is shared with the village hall and nursery and leads to a large parking area to the rear of the pub. Beyond that are the newer houses on Monarch Drive, which are set down from the Kemsley Arms due to changing land levels.
- 1.8 The existing building included a large single storey rear extension which is annotated on the existing plans. However, at the time of officer site visits the rear extension had been removed.

2. PROPOSAL

- 2.1 The proposal seeks the redevelopment of the site, including the redevelopment and extension of the former Public House. The site would be redeveloped with two detached buildings, with associated parking and landscaping.
- 2.2 For the existing building on site comprising the former public house, at ground floor level a flexible retail space is proposed (use class E, formally use classes A1, A3 or A4), this would be 212sqm. The remainder of the building would be for residential use, and includes a rear two storey extension to provide 20 residential flats (1 x studio apartment; 14 x 1 bed flats; 5 x 2 bed flats). The proposals include an open air internal courtyard in the centre of the building with partially glazed walls to allow light to the centre of the building, and there is access at ground floor level for amenity space.
- 2.3 The existing façade of the main building would be retained, with a part single storey and part two storey rear extension. The extensions would have a mansard style roof with accommodation in the roofspace, and would be lower in height than the main building. The extension includes staggered elements in both height (single / two storey) and in

elevation treatment. The existing entrance into the building on the front (south) elevation is retained and would serve the flexible retail unit. A new entrance is proposed on the side (eastern) elevation to serve the residential flats. This is referred to as Block 1 on the plans.

- 2.4 The proposal includes the erection of a two storey building to the rear, which would contain 8 flats (1 x 1 bed flats; and 7 x 2 bed apartments). The building would be T shaped, and would have a mansard style roof with accommodation in the roofscape. The projecting element on the front elevation would be at first floor level only supported by pillars, with undercroft parking beneath. This is referred to as Block 2 on the plans
- 2.5 The existing Kemsley Arms building would be finished in white render, with clay roof tiles (as per the existing). The proposal includes additional accommodation in the roof which will be served by conservation style rooflights on the front elevation. In terms of materials for the extension to the Kemsley Arms building, and Block 2, this would be finished in a mix of white render and brickwork (with contrasting brickwork elements). The mansard roof and dormer windows would be finished in a grey metal standing seam roof. Windows would be a mix of timber, metal UPVC framed windows across the site.
- 2.6 In terms of parking, a few areas are proposed on the site as follows;
- 7 spaces to the front of Block 1 for retail use.
 - 20 spaces in between Block 1 & 2 for residential use
 - 10 spaces (8 residential and 2 visitor) to the east of Block 2 and to the rear of the village hall
 - 5 spaces for Nursery (to the east of Block 2 parking area)
 - 2 visitor spaces to the east of Block 1
 - 13 shared spaces are proposed to the front of the Village Hall, the plan shows a split of 5 retail spaces; 4 village hall spaces; and 4 visitor spaces. (This includes an extension to the existing parking area to the front of the village hall to create an additional 6 spaces).
- 2.7 Therefore the proposal includes 12 spaces for retail use; 28 spaces for residential use; 8 visitor spaces; 4 for the village hall; and 5 for the nursery.
- 2.8 As part of the proposals, the parking area to the front of the village hall on Ridham Avenue would be extended eastwards with the area extending to allow a further 6 parking spaces.

3. SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)			
Approximate Ridge Height (m)	10.2m	Block 1: 10.2m Block 2 (new): 8.2m	n/a
Approximate Eaves Height (m)	7.1m	Block 1: 7.1m Block 2 (new): 5.5m	n/a
Approximate Depth (m)	27.8m	Block 1: 28.7m Block 2 (new): 15m	Block 1: +0.9m

Approximate Width (m)	30m	Block 1: 30m Block 2 (new): 22m	n/a
No. of Storeys	2	2	n/a
Parking Spaces	Exact number unknown (approximately 30)	57	Approx + 27
No. of Residential Units	0	28	+ 28
No. of Affordable Units	0	0	0

4. PLANNING CONSTRAINTS

- 4.1 The application site lies within the built up area, and is not subject to any designation under the adopted Local Plan.

5. POLICY AND CONSIDERATIONS

5.1 The National Planning Policy Framework (NPPF) 2021

- 5.2 Chapter 2: Sustainable Development; Chapter 4: Decision-making; Chapter 6: Building a strong, competitive economy; Chapter 8: Promoting healthy and safe communities; Chapter 9: Promoting sustainable transport; Chapter 11: Making effective use of land; Chapter 12: Achieving well-designed places; Chapter 14 :Meeting the challenge of climate change, flooding and coastal change; Chapter 15: Conserving and enhancing the natural environment; Chapter 16: Conserving and enhancing the historic environment

5.3 The National Planning Policy Guidance – Viability

5.4 Bearing Fruits 2031: The Swale Borough adopted Local Plan 2017

Policy ST1 Delivering sustainable development; ST3: The Swale settlement strategy; ST5: The Sittingbourne area strategy; CP1: Building a strong, competitive economy; Policy CT2 Promoting sustainable transport; CP3: Delivering a wide choice of high quality homes; CP4: Requiring good design; CP6: Community facilities and services to meet local needs; Policy CP7 Conserving and enhancing the natural environment; Policy CP8 Conserving and enhancing the historic environment; DM7: Vehicle parking; DM8: Affordable housing; DM14: General development criteria; DM16: Alterations and extensions; DM17 Open space, sports and recreation provision; DM19: Sustainable design and construction ; DM21 Water, Flooding and Drainage; DM28 Biodiversity and geological conservation; DM29 Woodland, Trees and Hedges; IMP1 (Implementation and Delivery Plan).

Supplementary Planning Documents/Guidance:

5.5 Swale Parking Standards SPD 2020

5.6 The Conversion of Buildings into Flats and Houses in Multiple Occupation SPG

6. LOCAL REPRESENTATIONS

6.1 **The Sittingbourne Society** – No objection. We hope the provision of affordable housing will help to relieve pressure on greenfield sites on the town periphery.

6.2 **Comments on behalf of Kemsley Community Trust (Board of Trustees)** – Objection

Kemsley Community Trust has a long term lease from Swale Borough Council for the Village Hall and the grounds including the Car Park adjacent to the Kemsley Arms. The redevelopment of the Kemsley Arms is welcomed as the existing building has long been derelict. The development will tidy up the area and make use of a "brown field" site.

The Village Hall must retain at least the same amount of parking space as it currently enjoys. Car parking for large events at the hall often exceed the available space and the Trustees do not want to increase the possibility of confrontations with local residents. The hall car park spaces must be strictly for patrons of the hall.

The proposed plans show refuse facilities next to the hall. These must be sited away from the hall because of smells, pests, and waste overspill.

Access is required for fuel deliveries so refuse facilities cannot be sited next to the hall's oil store. Access is required to the hall side door for deliveries of equipment and supplies for functions.

In normal times, the hall is frequently hired out for functions that may have discos or other noisy activities. The Trust needs the income from such events but do not want friction with the new development residents over noise levels. There is scope for improvements to the hall which will have noise reduction benefits, however the Trust have no funds available for this

7. CONSULTATIONS

7.1 **National Highways (formerly Highways England)** – raise no objection, subject to a Grampian condition which sets out that no dwellings shall be occupied until the opening to the public of a Roads Investment Strategy scheme at M2 Junction 5 and Housing Infrastructure Fund scheme at A249 Grovehurst junction.

7.2 13/05/21: *"We will be concerned with proposals that have the potential to impact on the safe and efficient operation of the Strategic Road Network (SRN), in this case the A249 and M2 J5. Highways England previous noted that there is no spare capacity at M2 Junction 5 or at A249 Grovehurst Junction, any additional development would likely have detrimental impacts on the safe operations of the junctions. Highways England had previously recommended that there be no occupation of the sites prior to the completion of the junction improvements at the M2 J5 and Key Street Junction (A249). A HEPR was issued with this statement (copy attached).*

Ms Wright has provided further details in the form of a Transport Statement and additional spreadsheet modelling based upon trip generation and trip distribution. The TS notes that 3 vehicles are likely to travel through the M2 J5 within the AM Peak period. We neither agree or disagree with the figures. The fact remains that there is simply no further capacity in M2J5 and A249 Grovehurst junctions to accept any increase in traffic

Consequently, as agreed by Swale and Kent Council, we are obliged to require the recommended Grampian condition be attached to any planning permissions that would generate any additional traffic.”

- 7.3 **Natural England** - Requests that a contribution be secured in respect of the SAMMS Tariff.
- 7.4 *Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).*
- 7.5 **Southern Water** – raise no objection subject to a condition regarding measures to protect the public sewer / water mains to be agreed with Southern Water, and an informative regarding foul sewerage and surface water disposal.
- 7.6 **KCC Biodiversity** – No objection subject to conditions (precautionary mitigation strategy for bats; ecological enhancements) and an informative re breeding birds.
- 7.7 *“The Preliminary Ecological Appraisal assessed that there was potential for roosting bats and breeding birds to be present within the building and subsequently a bat emergence survey was carried out on the 2nd May 2021 and assessed that it was unlikely that there was bat roosting within the building.*

However we acknowledge that the building was assessed as low potential and we accept that no further surveys are required prior to determination of the planning application. The original PEA stated the following: Most of the roof has no timber sarking or roofing felt, with the tiles simply sitting on rafters and battens; however the most western section has roofing felt below the tiles, where crevice-dwelling bats could roost. Therefore to address this concern that bats could still roost within the western section of the building we advise that we would expect a precautionary mitigation strategy to be implemented if planning permission is granted when doing works on the roof – particularly the western section.

We advise that if planning permission is granted a precautionary mitigation strategy is submitted as a condition of planning permission – suggested wording at the end of the report.”

- 7.8 **KCC Economic Development** – Request the following contributions (1 July 2021):

	Per ‘applicable’ flat (x14)	Total	Project
Primary	£1700.00	£23,800.00	Towards a new 2FE Primary School construction in Sittingbourne
Secondary Education	£1294.00	£18,116.00	Towards the new Secondary School construction upon land off Quinton Road, NW

			Sittingbourne policy MU1
Secondary Land	£658.93	£9,225.02	Towards the new Secondary school site acquisition upon land off Quinton Road, NW Sittingbourne

'Applicable' excludes: 1 bed units of less than 56 sqm GIA – the Architect has advised 14 flats are below this threshold, and the remainder (14) are above this threshold.

	Per Dwelling (x28)	Total	Project
Community Learning	£16.42	£459.76	Contributions requested towards additional equipment and resources at Sittingbourne Adult Education Centre
Youth Service	£65.50	£1834.00	Contributions requested towards additional resources for the Youth service in Sittingbourne
Library Bookstock	£55.45	£1552.60	Contributions requested towards additional services, resources, and stock at Sittingbourne Library
Social Care	£146.88	£4112.64	Towards Specialist care accommodation in Swale District
Waste	£183.67	£5142.76	Towards additional capacity at the HWRC & WTS in Sittingbourne
Broadband:	<p>Condition: Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mbps) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.</p> <p>Reason: To provide high quality digital infrastructure in new developments as required by paragraph 114 NPPF.</p>		

7.9 **KCC Flood and Water Management** – No objection subject to conditions (detailed sustainable surface water drainage scheme & verification report) and advisories

7.10 *“Having reviewed the information submitted we are generally satisfied that the design proposed, namely an attenuated system with a restricted discharge to sewer, does not increase the risk of flooding and as such have no objection to the proposal with the following advisories and recommended conditions. As the site is in it's entirety impermeable we would expect for the total red line site area to be considered within the drainage calculations not just the areas comprise a new extension, new building and reconstructed hard standings and as such we will expect for this to be demonstrated as part of the detailed design. We would expect that this will require additional attenuation to be provided but believe sufficient space exists on site for this to be accommodated.”*

7.11 **KCC Highways and Transportation** - No objections to the proposals in respect of highway matters subject to conditions being attached to any permission granted, and

securing the calculated S106 highway contribution of £2,657 per dwelling towards the Grovehurst HIF recovery (30/06/21)

7.12 The plans have been amended and further information provided during the course of the application to address comments relating to parking spaces; land ownership; layby extension.

7.13 Parking and Layby extension

“I consider that the parking provision indicated on the submitted drawings to cater for the development proposals are generally in accordance with the relevant parking standards, as each flat would be provided with 1 space, and the retail space for A1 and A4 use would largely be met by the provision in front of the building and the other public spaces within the highway. It is also recognised that these spaces would historically have been available for customers of the public house previously.

The residential parking proposed at the rear of the village hall does appear to reduce the amount of parking that the village hall currently has use of. The historic imagery available suggests that around 6 allocated village hall spaces would be lost, but the proposals do include the creation of 6 spaces alongside the existing on-highway layby parking directly in front of the hall. Whilst I have no objection to this, I would note that 5 of these spaces, and the associated footway diversion and loss of 2 trees, will be constructed on land outside of the existing highway boundary. This area appears to be owned by a third party but will need to be adopted by the Highway Authority to secure public access for the footway in particular, so confirmation must be provided that the developer would have the agreement of the third party landowner to facilitate this

It must also be recognised that these 6 additional layby spaces will not be for the exclusive use of the village hall, unlike the 6 spaces they are now relinquishing at the rear. The public parking within the highway boundary in front of both buildings does provide flexibility of use between the different retail and community demands, and makes efficient use of spaces given the different times of activity between these uses. It should also be recognised that residents of the flats may also use these spaces if car ownership exceeds their allocated provision within the site itself. It is hoped this would not occur, based on the proposed residential provision meeting the Borough Council's parking standards, which are in turn derived from evidenced car ownership levels

The updated application form has now confirmed that all landowners within the application site have been served the appropriate notice of the development proposals, although I should still point out for the Applicant's information that the proposed parking layby extension will be required for adoption as public highway in order to be constructed. This will need to be progressed through a Section 278 Agreement with Kent County Council, as part of this land is already adopted highway, and will therefore need control of any third party land within those proposed highway works. On this subject, the adjacent footway to the layby is shown as being extended to match the revised parking arrangement, and I would want to see the width maintained at the wider provision along the full extent of these works, rather than providing the short narrow section at the end of the layby. It appears that the red line of the application site boundary has anticipated the wider provision, so the footway width should be increase there to follow that line.”

7.14 Layout

Within the site, the swept path analysis of the refuse vehicle demonstrates that it would overrun the planted areas either side of the entrance into the Block 1 parking area. Whilst further overrunning is indicated across the visitor space at the rear of the village hall, I note that the position of these spaces have been amended on the layout plans 20.20.PL1001 and 20.20.PL14 C, and would be clear of the vehicle's tracking.

7.15 Grampian condition & developer contribution

“As part of the HIF grant that will deliver highway improvements to the Grovehurst/A249 roundabout, planning approval will require the imposition of a Grampian condition to occupation of the new housing until the contract for the construction of the HIF improvement scheme has been awarded. In addition, as the HIF is provided as forward funding, developments are expected to contribute towards the recovery of the costs. Contributions will therefore be sought from this development in line with other developments. This is £2,657 per dwelling”

7.16 **Kent Police** – raise no objection. The layout and external design of the proposals have been discussed between the applicant & Kent Police, Kent Police advise the layout and external design is suitable. Request a condition regarding secure design to address physical security and access control.

7.17 **NHS CCG** – Requests a contribution of £16,920 towards refurbishment, reconfiguration and/or extension of one of the following: Grovehurst Surgery, Iwade Health Centre, Milton Regis Medical Partnership, The Meads Medical Practice and Sheppey NHS Healthcare Centre.

7.18 **MKIP Environmental Health** – No objection, subject to conditions regarding window glazing; dust control; construction hours and EV charging.

7.19 With specific respect to noise: *“The applicant submitted a Noise Impact Assessment Report and as a result of my concerns about the close proximity of the proposed development to the neighbouring Community Centre and my subsequent discussions with the author of the Report, I consider the following condition to be appropriate to this application:*

Window glazing installed on the building facades of the two development blocks shown on Drawing Number 20.20.PL14C forming part of this application shall be to the glazing configuration specified below:

- Block 1 façade facing the Community Centre and front and side facades of
- Block 2 that has a view of the Community Centre: 6mm glass – 16mm Argon filled air gap – 6.8mm laminated glass: Sound Reduction 40dB Rw (34dB_{Rw} + C_{tr})”

7.20 **SBC Affordable Housing Manager** (06/10/21): Raises no objection subject to securing a commuted sum of £40,000 towards off-site affordable housing.

7.21 02/09/20: *As per Planning Policy DM8 and because this development site is located in Kemsley, Sittingbourne, 10% of the total number of homes on this site should be delivered as affordable housing to provide **3 affordable homes**. I note from the*

application documents that the affordable homes offered are two one-bedroom flats and one two bedroom flat, and I can confirm that I am happy to accept these units.

Due to the low number of affordable homes required and high tenure split for Affordable/Social Rent Tenure (90%) I recommend that all three of these homes be provided as Affordable/Social rent tenure. As previously raised, it is likely to be difficult for the developer to secure a housing association on this site due to the very low number of affordable homes required. However, I will be more than happy to assist with this when the time arises.

- 7.22 Officer note: After the initial comments and during the application process, the applicants submitted a viability assessment setting out details of vacant building credit; outlining that developer contributions including affordable housing could not be afforded

The external viability consultant was asked to consider the above, and consider whether the scheme could provide on-site affordable housing; and consider an appropriate sum for off-site affordable housing contribution.

- 7.23 Affordable Housing Managers comment 06/10/21: *Thank you for sending me the commuted sum information for this scheme. I broadly agree with the proposed development valuation results within the report and which appear to be similar for these property types across the whole of the Sittingbourne area. I have also taken account of other similar applications where a commuted sum has been offered for these unit types in Sittingbourne over the last couple of years, and on balance am willing to accept the offer of **£40,000 as a total commuted sum** in lieu of for two affordable flats on this particular scheme.*

8. APPLICANTS SUPPORTING COMMENTS

- 8.1 *“Whilst, officers consider the implications of a non-viable scheme, please kindly take into account that The Kemsley Arms has now been closed and not in use for over 8 years. The enhancements that UKLI are proposing with our financial investment, will contribute to the village and The Kemsley community with a positive impact on the local economy. In addition to creating much needed local jobs and apprenticeships during the construction stage, which KCC intend to support. Completion of the development will also create long term job opportunities for local residents both within the retail sector and the property management sector for the residential properties.*
- 8.2 *Once the scheme is completed, it will produce a much needed continuous income for Swale Council, taking into account business rates and council tax for many generations to come.*
- 8.3 *I am positive that officers will take into consideration that the scheme has had the support of ward members and the whole community of Kemsley and continues to have their support, since the application was submitted. To date there have been no objections for our proposal. Kemsley, I am sure you will agree, is not the garden of England, and both public and private investment is required in the area in order to bring the village back to the setting it once enjoyed and to create a community that will thrive again whilst attracting further public and private investment.*

- 8.4 *I am certain that officers will also be aware that the scheme was without question viable at the start and changes in construction costs together with long delays due to lockdown, has resulted in the project becoming unviable. This is a factor that is beyond anyone's control and has resulted in an unviable scheme. Since the last viability report was submitted, interest rates have also increased, resulting the scheme being even more unviable.*
- 8.5 *I am certain that officers will give this application their deepest thoughts and understand the implications to the alternative of not approving this scheme and the impact on both for the community of Kemsley and Swale Borough Council, and I trust that your intention and vision is to find a solution in order to enhance the whole village and not allow any further decline to this community.”*

9. APPRAISAL

Viability, Developer Contributions and Affordable Housing

- 9.1 The use of planning obligations to address the impact of development and ensure they are acceptable in planning terms is well established in legislation and national, regional, and local planning policy. The NPPF and Swale Borough Council's Local Plan both recognise the importance of addressing the impacts of development and having effective mitigation in place to ensure that development can be accommodated sustainably.
- 9.2 The Council is keen to ensure that the new development (particularly much-needed housing) continues to be delivered, as detailed in its Local Plan and the emerging Local Plan Review. The Local Plan not only sets out plans for the delivery of development but also provides the basis on which development can be delivered sustainably, and in a way that respects environmental limits and resident's quality of life.
- 9.3 In line with this, the adopted Local Plan (Bearing Fruits) sets out requirements to ensure that new development is delivered sustainably, and the Council's Developer Contributions SPD (2009) details requirements required from new development to mitigate impacts associated with development. Policies CP 6 and IMP 1 seek to deliver infrastructure requirements and other facilities. The requested S.106 contributions are from KCC Economic Development (primary education; secondary education & land; community learning, youth services; libraries; social care and waste); KCC Highways; NHS CCG; SBC affordable housing and refuse bins, and any legal agreement would also need to include the SPA Mitigation (SAMMS payment) and total **£216,369.92**. A breakdown of these contributions and draft heads of terms (from January 2022) are included below;
- 9.4 Draft S.106 Heads of Terms:
- | | |
|--|-------------------|
| • NHS CCG | Total; £16,920 |
| • KCC: Primary Education (£1700 per applicable flat) | Total; £23,800 |
| • KCC; Secondary Education (£1294 per applicable flat) | Total; £18,116.00 |
| • KCC; Secondary Land (£658.93 per applicable flat) | Total; £9225.02 |
| • KCC; Community Learning (£16.42 per dwelling) | Total; £459.76 |
| • KCC; Youth Service (£65.50 per dwelling) | Total; £1834.00 |

• KCC; Library Bookstock (£55.45 per dwelling)	Total; £1552.60
• KCC; Social Care (£146.88 per dwelling)	Total; £4112.64
• KCC; Waste (£183.67 per dwelling)	Total; £5142.76
• KCC Highways (£2,657 per dwelling)	Total: £74,396
• SPA Mitigation (SAMMS) £253.83 per dwelling.	Total £7107.24
• SBC Affordable Housing Commuted Sum (or two affordable units on site)	Total: £40,000
• SBC Refuse Bins – the figure for flats is £189.64 per flat.	Total £5309.92
• SBC's Monitoring fee	Total £8393.98
• Soft Landscaping (for areas beyond the site boundary)	
	Total £216,369.92

Viability Information and Independent Assessment

- 9.5 A viability assessment was submitted with the application in April 2021, the initial assessment indicated that the scheme would be unviable with the provision of S.106 contributions and affordable housing.
- 9.6 The Council had the supporting viability information independently assessed, and as part of this assessment was instructed to consider an appropriate affordable housing commuted sum. The independent financial viability assessment was issued on 18th May 2021 (with revisions on 6th August 2021 and 22nd September 2021) following discussion and provision of further information regarding viability. The final version of the assessment dated 22nd September concluded the following:

“8.0 Vacant Building Credit. *We agree with the applicant that application of the VBC leads to the existing vacant floor space being equivalent to 20% of the proposed development, thus the maximum amount of Affordable Housing that could be provided, irrespective of the financial viability addressed in this report, is 8% or 2.24 homes.*

9.0. Analysis of FVA Outputs and appropriate Sensitivity Analysis.

9.1. *We have considered:*

9.2. *The proposed scheme of 28 apartments and a commercial space with 28 homes for market sale and S106 contributions of £176,273.60 and additional off site affordable housing contributions of £40,000, generates a residual land value of £400,411 (which equates to 100% of the benchmark value). This would be considered to be an economically viable level of land value as required by the National Planning Policy Framework. It notes sites need to deliver ‘a minimum return at which it is considered a reasonable landowner would be willing to sell.’ We further note in the recently published Viability Testing Local Plans document it is necessary “for the scheme to provide a competitive return to the developer to ensure the development takes place and generates a land value sufficient to persuade the landowner to sell the land.”*

10.0 Conclusions

10.1. *The FVA indicates the scheme as proposed, based on current known costs and values generates a residual land value of £400,411 assuming the provision of 28*

homes for market sale and delivering total S106 payments including for affordable housing of £216,274.

10.2. This is a level, which can be considered to deliver a minimum return to the landowner, in comparison with the established convention of consideration of current benchmark values.

10.3. It is therefore our reasonable judgment that a viable scheme is one which contains 26 homes for market sale also delivering total S106 payments including for affordable housing of £216,274.”

9.7 The independent advice received (22nd September 2021) set out that a viable scheme was one that included the provision of S106 contributions of £176,273.60 and additional off site affordable housing commuted sum of £40,000, and officers sought to agree the above heads of terms with the applicants/agent to progress the application

9.8 In February 2022, the applicant advised they were going to submit updated build cost information for consideration, and confirmed that they did not agree to the requested S.106 heads of terms. This further information which included an addendum to the original viability report, together with a building cost assessment was provided in March 2022.

9.9 This information was independently assessed, and a report was provided dated 22nd March which advised the following conclusions:

*“The FVA indicates the scheme as proposed, based on current known costs and values generates a residual land value of **£400,978** assuming the provision of 28 homes for market sale and delivering total S106 payments including for affordable housing of £132,000.*

This is a level, which can be considered to deliver a minimum return to the landowner, in comparison with the established convention of consideration of current benchmark values.

It is therefore our reasonable judgment that a viable scheme is one which contains 26 homes for market sale also delivering total S106 payments including for affordable housing of £132,000.”

9.10 Following the receipt of the independent viability advice dated 22nd March, a meeting was held between officers and the applicants on 14th April 2022 to discuss viability. It was agreed in the meeting that officers will not seek the affordable housing commuted sum noting the viability constraints, and have reduced the monitoring fee in half. At the meeting, the applicants were advised, that there are financial contributions that the Council need to secure in order to mitigate the impact of the development on services and infrastructure. These relate to the contributions from KCC Economic Development, KCC Highways, NHS CCG, SPA Mitigation: SBC Refuse Bins. If these are not provided, officers would look to refuse the application. The updated Heads of Terms (dated 14th April 2022) seeking total contribution of £171,975.94 was sent to the applicants to be agreed

9.11 S106 Heads of Terms:

- NHS CCG

Total; £16,920

• KCC: Primary Education	Total; £23,800
• KCC; Secondary Education	Total; £18,116
• KCC; Secondary Land	Total; £9225.02
• KCC; Community Learning	Total; £459.76
• KCC; Youth Service	Total; £1834.00
• KCC; Library Bookstock	Total; £1552.60
• KCC; Social Care	Total; £4112.64
• KCC; Waste	Total; £5142.76
• KCC Highways (£2,657 per dwelling)	Total; £74,396
• SPA Mitigation (SAMMS) £253.83 per dwelling.	Total £7107.24
• SBC Refuse Bins £189.64 per flat	Total £5309.92
• SBC's Monitoring fee	Total £4000
• Soft Landscaping (for areas beyond the site boundary)	
	Total £171,975.94

9.12 In May 2022, the applicant submitted further information with a document called 'Planning Stage – Order of Costs' for the Kemsley Arms proposals. The applicants put forward that the scheme would not be able to provide any S.106 developer contributions.

9.13 This information was independently assessed, and a report was provided dated 20th May which concluded as follows s:

"4.0 Revised FVA.

We have considered (please see attached FVA):

The proposed scheme of 28 apartments and a commercial space with 28 homes for market sale and total S106 contributions of £132,000, generates a residual land value of -£774,886. This would not be considered to be an economically viable level of land value as required by the National Planning Policy Framework. It notes sites need to deliver 'a minimum return at which it is considered a reasonable landowner would be willing to sell.' We further note in the recently published Viability Testing Local Plans document it is necessary "for the scheme to provide a competitive return to the developer to ensure the development takes place and generates a land value sufficient to persuade the landowner to sell the land."

If the exercise is repeated with no S106 costs being allowed the negative residual land value reduces to -£631,804. Still a level that would not be viewed as viable.

Finally, we have reduced the profit level to achieve a residual land value that equates to the benchmark, noting the PPG suggest a minimum return of 15% of GDV. The benchmark land value equalling the residual value (a viable scheme) with no S106 contributions requires a profit level of just 2.25%. This would not attract external funding or be at a credible level in normal circumstances

5.0 Conclusions

The FVA indicates the scheme as proposed, based on current known costs and values generates a residual land value of -£631,804. assuming the provision of 28 homes for market sale and delivering no S106 payments or affordable housing.

This is a level, which cannot be considered to deliver a minimum return to the landowner, in comparison with the established convention of consideration of current benchmark values, without considerable additional risk being taken.

It is therefore our reasonable judgment that a viable scheme is one which contains 26 homes for market sale but delivering no S106 payments or affordable housing and at considerable additional risk to the developer.”

9.14 The independent consultant has clarified the last paragraph of the conclusion, advising the following: *“The scheme, all for market sale, and with no S106 contributions generates a significantly negative land value (-£631,804). It can only be considered viable if the developer is prepared to take decisions to outperform the market:*

- *To accept a return of 2.25%, far less than the commercial rate (acceptable to banks of 20%)*
- *Build costs far less than the market rate*
- *Sales values ahead of the market*
- *Or a combination of the above”*

9.15 In summary the independent assessment undertaken has concluded that the proposed scheme would generate a negative residual land value, with or without S.106 contributions. If the requested developer contributions of £171,975.94 were sought (noting this omits the affordable housing commuted sum), generates a residual land value of -£818,218.60. If the exercise is repeated with no S.106 contributions sought, then the negative residual land value reduces to -£631,804. The independent consultant has advised that this would not be considered to be an economically viable level of land value as required by the National Planning Policy Framework. It notes sites need to deliver ‘a minimum return at which it is considered a reasonable landowner would be willing to sell.’ The independent consultant further notes in the recently published Viability Testing Local Plans document it is necessary “for the scheme to provide a competitive return to the developer to ensure the development takes place and generates a land value sufficient to persuade the landowner to sell the land.” The practical impact of this is that the negative value would be required to be absorbed within the developer’s profit margin, which is already lower than what would generally be accepted (typically 15-20%). This under normal circumstances creates significant risk that the development would not proceed

9.16 The latest heads of terms have not been agreed by the applicants.

Affordable Housing

9.17 The proposed development seeks the provision of 28 residential units. Policy DM 8 of the Local Plan states that development of 11 or more dwellings would need to provide affordable housing. The application site is located in Sittingbourne which require a 10% provision of affordable housing. Therefore a policy compliant scheme would include 3 on site affordable units.

- 9.18 Policy DM 8 continues to identify in section 5(c): *‘where an applicant can demonstrate that providing the full affordable housing provision would result in the scheme becoming unviable, a reduced requirement may be considered and will be subject to a legal agreement to ensure that full provision of affordable housing is reconsidered should land values rise prior to the commencement of development or any subsequent phases and/or an adjustment made to the tenure split’.*
- 9.19 Paragraph 58 of the National Planning Policy Framework states that: *‘It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker...’.*
- 9.20 Paragraph 64 of the National Planning Policy Framework states that: *‘To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.’*
- 9.21 A viability assessment was submitted with the application and also set out that vacant building credit would be applicable from the re-use of the Kemsley Arms building. The viability assessment (and subsequent assessments) have been reviewed independently. The independent assessment (September 2021) identified that vacant building credit would be applicable, and that the maximum amount of Affordable Housing that could be provided, irrespective of the financial viability, is 8% or 2.24 homes.
- 9.22 As part of the negotiations of the development, and the viability evidence put forward (up to September 2021) officers agreed an offsite contribution of £40,000 for affordable housing. As set out above, following the receipt of the independent viability advice dated 22nd March, a meeting was held between officers and the applicants on 14th April 2022 to discuss viability. It was agreed in the meeting that officers will not seek the affordable housing commuted sum noting the viability constraints. This was agreed to help bring forward development on site noting policy DM8 and the national policy context, notwithstanding this the Council advised that the Council need to secure the requested financial developer contributions in order to mitigate the impact of the development on services and infrastructure.
- 9.23 Policy CP6 of the adopted Local Plan sets out that development proposals will deliver timely infrastructure, especially those forming part of the Local Plan implementation and delivery schedule. It also sets out that where the viability of development may be threatened as a result of requirements of the Local Plan that if this financial position is demonstrated via an open book assessment then contributions should be prioritised in accordance with the Local Plan implementation and delivery plan.
- 9.24 I also note in the supporting text to Policy CP6, it is stated at paragraph 5.5.17 that *“In cases where developer contributions may need to be reduced for viability reasons, the Council will only agree to this where the advantages of proceeding with the development would significantly outweigh the disadvantages.”*
- 9.25 With regard to developer contributions, paragraphs 57 and 58 of the NPPF are relevant:

“57. Planning obligations must only be sought where they meet all of the following tests

a) necessary to make the development acceptable in planning terms;

b) directly related to the development; and

c) fairly and reasonably related in scale and kind to the development. 58. Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available”

9.26 As such, although both local and national policies recognise that a degree of flexibility should be applied when the viability of a scheme is threatened, the proposal in respect of the above quoted paragraph contained within the Local Plan and the requirements of paragraph 11 of the NPPF will need to be assessed in order to conclude whether the benefits of the proposal would outweigh the harm and whether the proposal would represent sustainable development. This is done in the sections below.

Principle of Development – Sustainable Development

9.27 The former Kemsley Arms site is located within the defined Built-up Area boundary of Sittingbourne. Policy ST 3 identifies Sittingbourne as the primary urban focus for growth in the Borough. Policy ST 6 of the Local Plan states within the Sittingbourne area, the town is the principal urban centre and focus for the main concentration of developments in and adjacent to the town. Criteria 5 and 7 are relevant, and set out;

“5) Create, where appropriate, mixed use and healthy communities and address disparities and housing market variances between communities north and south of the A2 through high quality design new facilities and new jobs as appropriate;

7) Reduce levels of deprivation in the most deprived wards and facilitate as required, increased capacity in infrastructure and services”

9.28 Furthermore, at 2.2.1 of the Local Plan, Kemsley is one of the areas identified as having pockets of deprivation, and para 4.3.58 outlines that ‘developments will target the reduction in deprivation within communities at Milton Regis, Kemsley and Murston whilst maintaining the qualities of the housing market in the south of the town.

9.29 Paragraph 119 of the National Planning Policy Framework states that:

“Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies

should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield land'.

- 9.30 The application site is within a high tier settlement in Swale and is considered Previously Developed Land, as the site has an existing building on it with much of the site covered in hardstanding, where the principle of residential development would be supported.
- 9.31 Paragraph 11 of the National Planning Policy Framework (NPPF) states that plans and decisions should apply a presumption in favour of sustainable development. The Council's latest position indicates a demonstratable position of a 4.8-year housing supply and does not meet the minimum requirement of a 5-year housing land supply. In such situations, the NPPF advises that plans and decisions should apply a presumption in favour of sustainable development.
- 9.32 For decision making paragraph 11 states:
- 'd) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;*
or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'.*
- 9.33 The Council cannot demonstrate a 5-year housing supply, therefore the 'tilted balance' applies. This changes the 'balancing exercise' which the decision-taker (the planning officer, Inspector or secretary of state) makes when deciding whether or not to grant planning permission; from a neutral balance where if the harms outweigh the benefits planning permission is usually withheld to a tilted balance where the harms should *significantly and demonstrably* outweigh the benefits for permission to be withheld.
- 9.34 Concerning the impact on nationally protected sites, in respect of footnote 6 of paragraph 11 of the NPPF, the application site falls within the North Kent Marshes (SPA) and Ramsar sites which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). In respect of the SPA, NPPF Para 177 confirms that the presumption in favour of sustainable development does not apply where the plan or project is likely to have significant effect on a habitat site, unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitat site. The section on this later in the report concludes that with appropriate mitigation through SAMMS payments there would be no impact on the integrity of the Habitat site. However in the absence of a S106 agreement to secure this sum, the proposal would be contrary to policies CP7 and DM28 of the Local Plan.
- 9.35 The proposal also seeks to provide a mixed use site with the provision of primarily residential units, with a flexible retail space. Policy CP 1 of the Local Plan seeks to support the building of a strong and competitive economy. The NPPF (at para 93) and

Policy CP6 of the Local Plan seek to protect existing community facilities where they are viable or can be made so, unless provision is being made elsewhere without leading to a shortfall. In the previous application (14/502848/FULL) a detailed viability assessment with regards to the costs involved in reinstating the pub use (given that the pub use ceased several years ago, and the building has been left in disrepair after being unoccupied for a number of years after the closure of the restaurant) was provided. It was considered in that application that it had been demonstrated that the continued use as a pub / community facility was not financially viable and the principle of change of use is therefore acceptable under terms of previous policy C1 of the Swale Borough Plan 2008.

- 9.36 Since the previous application, the site has remained closed and as evident from the site visit the building is in a poor state and its does not appear any investment into the building has been undertaken with the exception of the erection of secure fencing around the site boundaries. The application has, as noted above, been supported by a Financial Viability & Employment Potential Assessment which sets out the viability of the Kemsley Arms building as a Public House. It sets out that there would be high costs involved in restoring the public to be used as a Public House, and provides context of the decline of Public Houses in Sittingbourne. Taking this into account, and the number of years the building has been closed it is considered that the sites use a pub / community facility was not financially viable and the principle of change of use is therefore acceptable. The provision of a flexible retail space in part of the ground floor of the 'Block 1' building is considered to be acceptable and will ensure that some element of the employment/commercial/retail use within the building takes place to serve the local community.
- 9.37 Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways:
- 9.38 *a) an economic objective – to help building a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- 9.39 The proposal would provide a mixed-use site through the provision of both residential and flexible retail space (being 212sqm) at ground floor level. The benefits can be seen in an economic sense from the provision of an additional 212sqm of retail floor space in Kemsley which will provide employment opportunities within the area, but also from the secondary impact r.e. workers using local amenities such as shops and associated services. The introduction of residential development would have a somewhat lesser economic benefit. However, the proposal would see gains in terms of increased residential spend power within the town. Alongside this would be the short-term gains from the construction process.
- 9.40 The proposal would be considered to have a degree of economic benefit to the area supported by both local and national policy.

- 9.41 *b) a social objective – to support strong, responsive and competitive economy, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities, health, social and cultural well-being; and*
- 9.42 Policy CP 3 of the Local Plan seeks to ensure the delivery of a wide choice of homes. Paragraph 5.3.6 of the Local Plan states that the Strategic Housing Market Assessment (SHMA) indicates that the largest growth will come from single person and lone parent households. For market housing the need indicates a requirement for 7% 1-bedroom properties and 36% 2-bedroom properties. The proposed development would support the provision of additional housing in the Borough. Currently the Council cannot demonstrate a 5-year housing supply, as a result an additional buffer is required to address this shortfall. The proposal would seek the introduction of 28 market residential units. The provision of additional housing would contribute to the provision for present and future generations. The proposed units would be comprised of a studio flat; 15 x 1 bedroom units and 12 x 2 bedroom units. The provision of such units would be considered to have a social benefit in regard to the tenure, and siting as per the Council's SHMA.
- 9.43 The proposal's location within an existing built up area provides access to a range of local services within Kemsley including a primary school, convenience stores and post office/, village hall, nursery, pharmacy and doctors surgery. The site is located near to a bus route providing services to Sittingbourne, and Kemsley train station which connects to Sittingbourne and the Isle of Sheppey where there are a wider range of services.
- 9.44 The NPPF in terms of the social role that the planning system should perform also sets out the need for *“accessible services and open spaces that reflect current and future needs and support communities, health, social and cultural well-being.”* In this respect, although the site, by virtue of its location in the built up area boundary is well connected to local services, I note that the application is not seeking to provide any S.106 developer contributions on the grounds of viability (discussed further above). This includes requested contributions towards primary and secondary education; community learning; youth services; libraries; social care; NHS healthcare; highway improvements and refuse bins. In terms of these requests, KCC have specifically identified the primary and secondary schools and projects which the contributions will be put towards, the NHS has specifically identified the healthcare facility that the contribution will be put towards and the Council has specifically identified refuse bin requirements.
- 9.45 In respect of the above contributions, the development proposes 28 flats, including 12 2-bedroom flats, and therefore the likelihood of these two bedroom flats being occupied by families would be high. Therefore, it is extremely likely in my view that the development would give rise to demand upon local schools, as well as healthcare facilities and the increased use of the road network and local refuse capacity. The failure to provide contributions for these facilities and the significant harm that this would cause should in my view be given very significant weight in the decision making process.
- 9.46 The proposal would also fail to meet the aims of policy ST5, specifically criteria 7 which seeks to *“reduce levels of deprivation in the most deprived wards and facilitate as*

required, increased capacity in infrastructure and services” from the lack of developer contributions.

- 9.47 The harm that would be caused in this case would be substantial and the resultant impact of the development upon specifically identified local services and infrastructure significant and unacceptable. The proposal is therefore considered to fail to meet the social objectives of the NPPF which is a considered to result in significant harm.
- 9.48 *c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigation and adapting to climate change, including moving to a low carbon economy.*
- 9.49 Policy ST 3 of the Local Plan recognises that the Sittingbourne is the primary urban focus for growth. Further, policy DM 19 of the Local Plan seeks to ensure development includes measures to address and adapt to climate change. The application site is located within the area of Kemsley within Sittingbourne, and is within walking distance to local services within the Kemsley such as the primary school; convenience store; pharmacy and doctors surgery. The site has access to public transport via bus services which link to Sittingbourne, and the train station which provides links to Sittingbourne and the Isle of Sheppey.
- 9.50 The location of the site is considered to provide a wide extent of future occupant needs without placing an undue reliance on the car. The proposal would provide some parking on site, offers the opportunity for electrical vehicle charging points, and provides one cycle storage space per flat.
- 9.51 The application site is covered in hardstanding which has limited opportunities for environmental benefits. The proposed extended parking area on Ridham Avenue would result in the loss of existing planting here (shrubs and trees). The proposal would offer the opportunity for some landscaping across the site, adjacent to blocks 1 and 2, and within/adjacent the parking areas. Currently no planting has been shown to replace the trees and shrubs that would be lost by extending the parking area on Ridham Avenue, and additional/replacement planting would need to be secured as part of any consent. Subject to further planting, it is considered there would be some landscaping and overall improvements which would have an environmental benefit
- 9.52 As set out above the proposal is considered to meet the environmental objectives with moderate weight attached to this, and there would be a degree of economic benefits, however this needs to be weighed against the social objectives and the failure of the proposal to provide contributions to primary and secondary education, KCC services, healthcare, highways and refuse. In my view, despite the above benefits, the harm that would be caused in this case would be substantial and the resultant impact of the development upon specifically identified local services and infrastructure significant and unacceptable. The proposal would therefore fail to meet the three overarching objectives of sustainable development.

Visual Impact

- 9.53 Policies CP 3, CP 4, and DM 14 seek to ensure development has a high-quality design, is appropriate to the site context, and reinforces the local distinctiveness. Paragraph 124 (d) of the National Planning Policy Framework seeks to ensure efficient use of land which maintains the area's prevailing character.
- 9.54 The application site is located within the urban area of Sittingbourne, and is a prominent building within Kemsley, especially when approaching Kemsley from Grovehurst Road to the south, and is considered to be an important local building in terms of its design, placement and history (having been constructed as a central social building when Kemsley was originally built as a 'garden village' for mill workers). Due to its design and local historical importance the Council considers the building to be a non-designated heritage asset.
- 9.55 The proposals would seek to redevelop the Kemsley Arms site, with the existing façade of the main building to be retained. The building would be extended to the rear by a two storey extension to create sufficient space for 20 flats within the extended building.
- 9.56 The extension includes staggered elements in both height (single / two storey) and in elevational treatment, which reflects the character and design of the existing building frontage. It is considered that the proposed extensions to the Kemsley Arms building are of an appropriate scale and form as they would appear as a subordinate addition, being lower in height than the existing building and would not extend beyond the existing external walls. The extension is of a more contemporary design than the existing frontage, which will provide visual interest for the new development, whilst maintaining the existing character of the host building. The proposal would use similar proportioned windows and openings that appear on the existing building frontage. Overall, the proposed extension to the Kemsley Arms building is considered to be acceptable in terms of visual impact, and an appropriate approach for the non-designated heritage asset.
- 9.57 The proposal includes the erection of a two storey building to the rear, which would contain 8 flats (1 x 1 bed flats; and 7 x 2 bed apartments). The building would be T shaped, and would have a mansard style roof with accommodation in the roofscape. The projecting element on the front elevation would be at first floor level only supported by pillars, with undercroft parking beneath. The building is considered to be a suitable scale and form to complement the main Kemsley Arms building. The rear building would be less visible within Kemsley with existing built form to the south, west, north and east.
- 9.58 The existing Kemsley Arms building would be finished in white render, with clay roof tiles (as per the existing). The proposal includes additional accommodation in the roof which will be served by conservation style rooflights on the front elevation. In terms of materials for the extension to the Kemsley Arms building, and Block 2, this would be finished in a mix of white render and brickwork (with contrasting brickwork elements). The mansard roof and dormer windows would be finished in a grey metal standing seam roof. Windows would be a mix of timber, metal UPVC framed windows across the site. This approach is considered to be suitable, and full details for external materials and

windows/doors could be sought via condition to ensure a suitable high quality finish would be achieved.

- 9.59 The proposal would offer the opportunity for some landscaping across the site, adjacent to blocks 1 and 2 and within/adjacent the parking areas. This has been indicated as a mix of shrub/hedge planting with trees, including along the northern and western boundary of block 2 creating a soft landscape edge between block 2 and neighbouring properties, and also to the west of block 1 where the planting would be visible in the public realm. Currently no planting has been shown to replace the trees and shrubs that would be lost by extending the parking area on Ridham Avenue, and additional/replacement planting would need to be secured as part of any consent to off-set the lost planting, and to meet the requirements of the NPPF at para 131 which seeks the provision of street trees. Full details of landscaping could be sought via condition.

Residential Amenity

- 9.60 The closest residential dwellings would be situated to the west and north of the site, and would be sited closest to Block 2. To the west is a two-three storey flat block (nos. 2-26 Menin Road), and to the north are residential dwellings along Monarch Drive including two storey residential dwellings, and two flats. The properties along Monarch Drive are at a lower land level than the Kemsley Arms site
- 9.61 The development proposals have been amended during the course of the application process with regard to the siting, scale and layout of block 2. Block 2 was originally sited close to the northern boundary, and I had concerns about the impact upon neighbouring properties to the north in terms of overshadowing and outlook; and to the west in terms of overlooking and harm to privacy from first and second floor windows on the west elevation.
- 9.62 The proposals for block 2 have subsequently been amended to address the concerns raised regarding residential amenity. The building has been moved further away from the north and west site boundaries, and has a lower overall height and reduced in width. This has been demonstrated through site section drawings which shows the current proposals and neighbours to the north on Monarch Drive which are situated at a lower land level. A site layout plan has been provided to show the separation distance between block 2 and existing neighbouring properties to the north and west.
- 9.63 As a result of the amendments which have increased the separation distance between block 2 and neighbouring properties, reduced the height and scale of block 2 and have provided additional landscaping screening, it is considered that the concerns raised regarding overshadowing and outlook have been addressed. Furthermore, the location and form of windows has also been amended to remove first and second floor windows from the western boundary where a 21m separation distance would not be achieved to address privacy concerns. There are first floor rear windows on the north elevation of block 2, in the eastern part of this building the window has been obscured glazed to prevent overlooking, and in the western part of the building there is a suitable separation distance of over 21m to ensure no significant harm in terms of privacy.

- 9.64 In terms of future amenity for the proposed residential flats, it is considered each flat would have a suitable level of light, privacy and outlook. In terms of access to amenity space, the areas proposed are relatively small and are limited to an internal courtyard in the middle of block 1, and a small area of open space to the north and west of block 2.
- 9.65 The site is adjacent to a Kemsley Community Centre (Village Hall), which is in active use, holds events and its opening hours are 8am-midnight Sunday-Thursday and 8am-1am on Fridays and Saturdays. Given the neighbouring use, a Noise Impact Assessment Report was submitted to support the application to demonstrate that residential uses could be supported on the site. The report has been reviewed by the Environmental Health team who advise the contents are suitable, and requests a condition seeking specific glazing to minimise noise along windows facing the community centre.

Highways

- 9.66 The proposed development would utilise the existing access to the site, and no alterations to the access are sought as part of the proposals. In terms of traffic generation, KCC Highways have raised no objection to the proposed development. The application has been supported by plans showing that there is suitable turning space for vehicles, including refuse vehicles to enter and leave the site in a forward gear
- 9.67 KCC Highways have advised that as part of the HIF grant that will deliver highway improvements to the Grovehurst/A249 roundabout, planning approval will require the imposition of a Grampian condition to occupation of the new housing until the contract for the construction of the HIF improvement scheme has been awarded. In addition, as the HIF is provided as forward funding, developments are expected to contribute towards the recovery of the costs. Contributions will therefore be sought from this development in line with other developments. This is £2,657 per dwelling. This contribution is included in the heads of terms set out previously in the report.
- 9.68 Further to the above, National Highways raise no objection subject to a Grampian condition which sets out that no dwellings shall be occupied until the opening to the public of a Roads Investment Strategy scheme at M2 Junction 5 and Housing Infrastructure Fund scheme at A249 Grovehurst junction.
- 9.69 The proposal seeks a mix of parking to reflect the proposed flexible retail use, residential use, and existing neighbouring uses at the community centre and nursery. The location of the parking spaces are described in the proposal of the development, and in terms of total numbers includes 12 spaces for retail use; 28 spaces for residential use; 8 visitor spaces; 4 for the village hall; and 5 for the nursery. This includes the proposed extension to the parking area along Ridham Avenue which would create a shared parking area with spaces for the community centre, visitors and retail. The Parking Standards SPD advises 1 space per unit for 1 & 2 bedroom flats, and 0.2 visitor spaces per the number of dwellings (5.6 spaces), as such the proposals would meet these requirements.
- 9.70 The community centre/village hall have raised concerns regarding the loss of parking spaces as a result of the proposed development. The residential parking proposed at the rear of the village hall does appear to reduce the amount of parking that the village hall currently has use of. The historic imagery available suggests that around 6 allocated

village hall spaces would be lost, but the proposals do include the creation of 6 spaces alongside the existing on-highway layby parking directly in front of the hall. As noted above, the spaces to the front of the community centre/village hall would not be solely for their use, however the public parking within the highway boundary in front of both buildings does provide flexibility of use between the different retail and community demands, and makes efficient use of spaces given the different times of activity between these uses. As such, it is considered the approach to shared parking provision is acceptable.

- 9.71 KCC Highways have advised that the proposed extended parking area on Ridham Avenue will be required for adoption as public highway in order to be constructed. This will need to be progressed through a Section 278 Agreement with Kent County Council, as part of this land is already adopted highway, and will therefore need control of any third party land within those proposed highway works. The KCC Highways comments include a condition setting out that the development shall not be brought into use until these highway works have been completed.

Biodiversity

- 9.72 Policy DM 28 of the Local Plan states that development proposal will conserve, enhance, and extend biodiversity, and provide net gains in biodiversity where possible.
- 9.73 The application has been supported by a Preliminary Ecological Appraisal which assessed there was potential for roosting bats and breeding birds to be present within the building and subsequently a bat emergence survey was carried out on the 2nd May 2021 and assessed that it was unlikely that there was bat roosting within the building.
- 9.74 KCC Biodiversity advise that no further surveys would be required prior to the determination of the application, however as the submitted information identified that the western part of the building may be suitable for bats (due to roofing felt below the tiles, where crevice-dwelling bats could roost), a precautionary mitigation strategy would be required by condition if planning permission is granted when doing works on the roof – particularly the western section.
- 9.75 To ensure compliance with policy DM 28 a condition to secure ecological enhancement would be applied to any consent. The Ecology report submitted indicates suitable measures to enhance biodiversity including native species planting and the provision of bird/bat boxes.
- 9.76 The application site is within the 6km buffer zone from the SPA and Wetland of International Importance under the Ramsar Convention. As a result, to ensure the development would mitigate for additional recreation pressure on the designated sites an Appropriate Assessment would need to be undertaken.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017:

- 9.77 The application site is located within the 6km buffer of (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species

Regulations 2017 as amended (the Habitat Regulations) and Wetland of International Importance under the Ramsar Convention.

- 9.78 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.
- 9.79 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 9.80 The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£275.88 per dwelling as ultimately agreed by the North Kent Environmental Planning Group and Natural England for the year 2022) – these mitigation measures are considered to be ecologically sound. If proposals provide the required SAMMS payments in line within the agreement with Natural England, then there would be no impact on the integrity of the Habitat site.
- 9.81 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 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment.
- 9.82 The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *“it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.”* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.
- 9.83 The proposal would have an impact upon the SPAs, and would result in 28 new residential units within the buffer zone. On this basis, a SAMMS payment is required from the applicant and it should be collected in accordance with the Council's standing agreement with Natural England. As previously set out, the SAMMS payment was included as part of S.106 heads of terms which the applicants have not agreed to pay. In the absence of a S106 agreement to secure this sum, the scheme remains unacceptable for failing to mitigate impacts upon the SPA and the proposal would be contrary to policies CP7 and DM28 of the Local Plan

Sustainability / Energy

- 9.84 The NPPF supports proposals for improvements to environmental sustainability, placing sustainability at the heart of the framework. Paragraph 152 requires the planning system

to support the transition to a low carbon future in a changing climate, including the requirement to help shape places in ways that contribute to radical reductions in greenhouse gas emissions. Paragraph 154 goes on to require new development to reduce greenhouse gas emissions, such as through its location, orientation, and design. This is further iterated in Paragraph 157 which sets out that in determining planning applications, new development should take account of landform, layout, building orientation, massing, and landscaping to minimise energy consumption.

- 9.85 Policy DM19 of the Local Plan requires development proposals will include measures to address and adapt to climate change. The ways in which this shall be achieved are then further detailed in the policy; including measures such as use of materials and construction techniques which increase energy efficiency and thermal performance; promotion of waste reduction, re-use, recycling and composting; and design of buildings which will be adaptable to change and reuse over the long term and which include features which enable energy efficient ways of living, for example.
- 9.86 Policy DM21 also requires that new residential development, all homes to be designed to achieve a minimum water efficiency of 110 litres per person per day. The supporting Sustainability Statement confirms that the Proposed Development will be designed to ensure estimated water consumption of no more than 110 litres/person/day. It is recommended that this be secured by condition should consent be granted.
- 9.87 In addition to the above, the Council has declared a Climate Change and Ecological Emergency and all applications for new housing are expected to demonstrate how they incorporate all reasonable sustainable design and construction measures within the scheme in order to minimise environmental impacts. This can include measures such as electric vehicle charging points (provision of one per dwelling); solar panels; passive energy measures; low NOx boilers as examples. Regarding the dwellings, it is the expectation that a reduction in CO2 emissions of 50% above the requirements of the Building Regulations be achieved. If consent was granted, the Council would look to implement conditions which achieve the aims of sustainability, including CO2 emissions of 50% above the requirements of the Building Regulations, and electric vehicle charging points.

10. CONCLUSION

- 10.1 The viability of the proposed development has been assessed as part of the consideration of the application, with the evidence tested by the Council's independent viability consultant. In summary the independent assessment undertaken has concluded that the proposed scheme would generate a negative residual land value, with or without S.106 contributions. If the requested developer contributions of £171,975.94 were sought (noting this omits the affordable housing commuted sum), this generates a residual land value of -£818,218.60. If the exercise is repeated with no S.106 contributions sought, then the negative residual land value reduces to -£631,804. The independent consultant has advised that this would not be considered to be an economically viable level of land value as required by the National Planning Policy Framework. On the basis of local and national policies in relation to viability I give this weight in the decision making process.

- 10.2 When assessed against paragraph 11 of the NPPF the main benefits of the scheme would be considered to derive from the provision of additional residential dwellings in a sustainable location and the contribution to the Council's 5-year housing land supply. As set out above the proposal is considered to meet the environmental objectives with moderate weight attached to this, and there would be a degree of economic benefits from the creation of a retail unit with employment opportunities, and short term economic benefits during construction. There would also be some benefit arising from the redevelopment of the Kemsley Arms building.
- 10.3 However, these benefits have to be weighed against the failure of the proposal to provide contributions towards services and infrastructure, in respect of primary and secondary education; community learning; youth services; libraries; social care; NHS healthcare; highway improvements and refuse bins. The failure to provide contributions for these facilities and the significant harm that this would cause should in my view be given very significant weight in the decision making process. The proposal would also fail to meet the aims of policy ST6, specifically criteria 7 which seeks to "*reduce levels of deprivation in the most deprived wards and facilitate as required, increased capacity in infrastructure and services*" from the lack of developer contributions. The harm that would be caused in this case would be substantial and the resultant impact of the development upon specifically identified local services and infrastructure significant and unacceptable. The proposal is therefore considered to fail to meet the social objectives of the NPPF which is considered to result in significant harm.
- 10.4 For the reasons given above the site is not considered to meet the social objective of sustainable development is fundamental and would significantly and demonstrably outweigh the identified benefits. The proposal is considered unacceptable and should be refused for the reasons outlined above.
- 10.5 The application site is located within the 6km buffer of (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations) and Wetland of International Importance under the Ramsar Convention. The proposal would result in 28 new residential units within the buffer zone, and therefore a SAMMS payment is required from the applicant and it should be collected in accordance with the Council's standing agreement with Natural England. As previously set out, the SAMMS payment was included as part of S.106 heads of terms which the applicants have not agreed to pay. In the absence of a S106 agreement to secure this sum, the scheme remains unacceptable for failing to mitigate impacts upon the SPA and the proposal would be contrary to policies CP7 and DM28 of the Local Plan.

11. RECOMMENDATION

REFUSE for the following reasons:

1. Despite the lack of viability that has been demonstrated, which under normal circumstances creates significant risk that the proposal would not proceed, the proposal, in failing to provide developer contributions to specifically identified local infrastructure [healthcare, primary education, secondary education and land, community learning, libraries, youth services, social care, waste services, bin

provision and highways] would give rise to unacceptable harm which would outweigh the benefits of the proposal. The proposal would fail to represent sustainable development and granting planning permission would create a precedent. This would be contrary to policy ST5, CP6 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and would be contrary to the thrust of the National Planning Policy Framework 2021.

2. The proposed development will create potential for recreational disturbance to the Thames, Medway and Swale Estuaries Special Protection Areas. The application submission does not include an appropriate financial contribution to the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy (SAMMS), or the means of securing such a contribution, and therefore fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, CP7, DM14, and DM28 of the adopted Swale Borough Local Plan 2017; and paragraphs 174, 180 and 181 of the National Planning Policy Framework 2021.

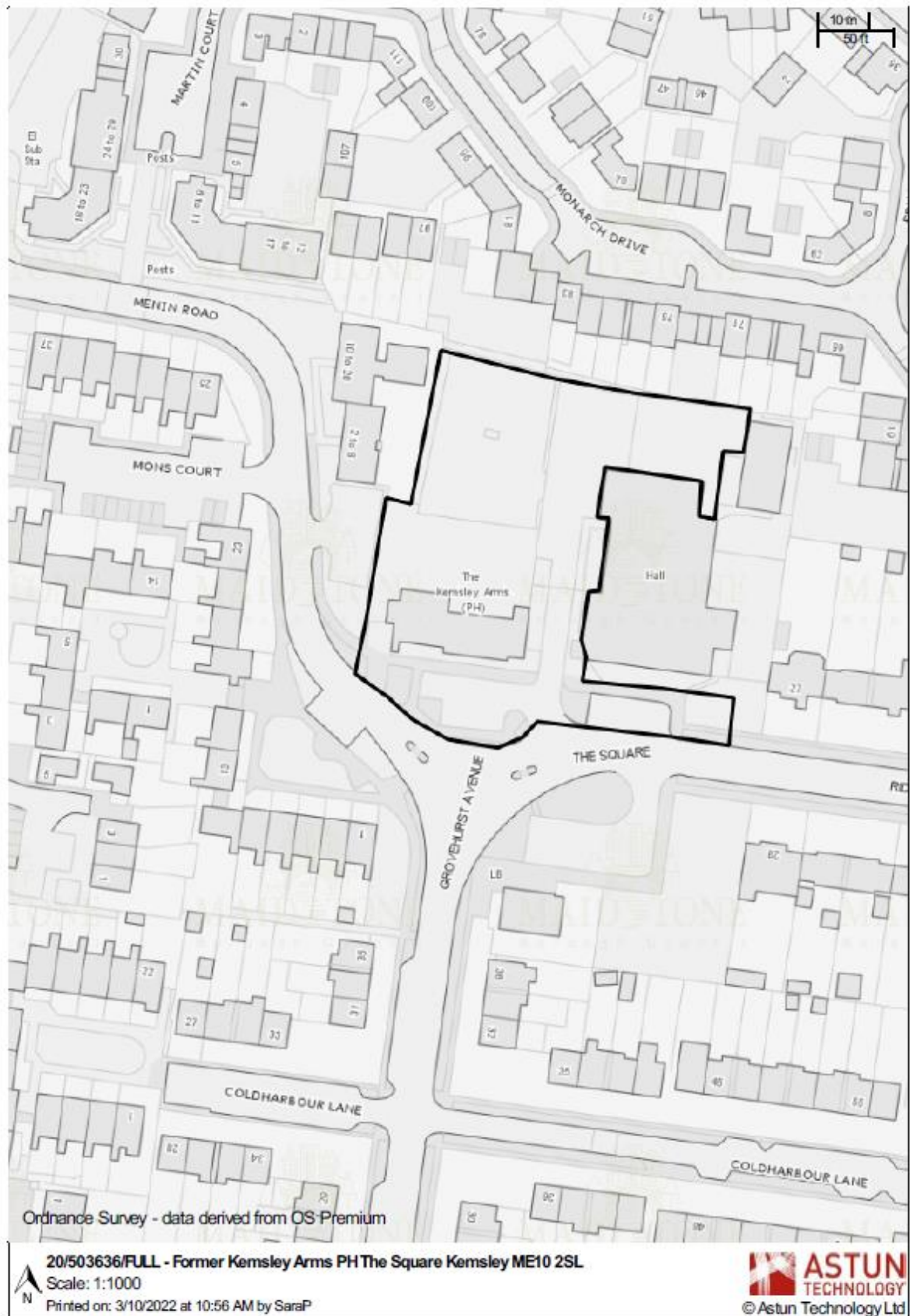
The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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.



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3.3 REFERENCE NO - 22/502340/OUT			
APPLICATION PROPOSAL			
Outline application (all matters reserved except access) for the erection of a single detached self-build dwellinghouse and carport/garage.			
ADDRESS Land Adjacent Westfield Cottages Breach Lane Lower Halstow Kent ME9 7 DD			
RECOMMENDATION That planning permission is Refused			
SUMMARY OF REASONS FOR REFUSAL			
The proposed development would represent unjustified and unnecessary residential development within the countryside, and outside of the defined built up area boundary, in a manner harmful to the character, appearance, and intrinsic amenity value of the countryside.			
REASON FOR REFERRAL TO COMMITTEE			
Support by Lower Halstow Parish Council Called in by Ward Councillor			
WARD Bobbing, Iwade and Lower Halstow	PARISH/TOWN COUNCIL Lower Halstow	APPLICANT Mr & Mrs Keith Tress AGENT TaD Planning Ltd	
DECISION DUE DATE 15/07/22	PUBLICITY EXPIRY DATE 08/08/22	CASE OFFICER Rebecca Corrigan	
Relevant Planning History			
Ref No.	Description	Decision	Decision Date
19/500764/OUT	Outline application (all matters reserved except access) for the demolition of former farm building/garage and erection of 10no. two, three and four bedroom dwellings with garages, associated landscaping and parking, together with new access and part widening of Breach Lane.	Refusal The refusal was appealed and subsequently Dismissed (W/4000612)	19.08.2019 Appeal Decision 29.06.2020
17/502046/OUT	Outline application (Some Matters Reserved) for erection of nine dwellings and garages, new access, with associated landscaping and parking – Access to be sought at this stage	Refused	11.07.2017
SW/84/0270 This application relates to the neighbouring site immediately to the north	Outline application for erection of one detached house	Refused	30.04.1984

SW/79/1491	Demolition of existing tin garage and erection of brick built garage	Approved	21.01.1980
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1. DESCRIPTION OF SITE

- 1.1 The application site relates to a parcel of land on the west side of Breach Lane, to the north of an existing dwelling, Westfield House.
- 1.2 The site is roughly rectangular in shape. It measures 65m north to south with an average width of 42 meters east to west, with a site area of approximately 0.25ha. Access to the land is from Breach Lane and towards the northern section of the site, directly opposite The Club House/Club Cottages at the north end of the terrace of dwellings on Breach Lane. There is a line of small-medium trees (hawthorn, elder, English elm, willow) just outside of the western boundary. A small brick building (11m x 5m) is positioned towards the western side of the site. The land is generally clear of vegetation.
- 1.3 The site is bordered by open countryside to the north and west. Westfield House is located to the south, beyond which is more open land. There are residential dwellings to the east situated on the opposite side of Breach Lane, including a row of 17 no. two storey terraced dwellings running north to south along the eastern side of Breach Lane with a further 7 running west to east. At the northern end of Westfield Cottages are 4 more terraced dwellings known as Club House & Club Cottages which are opposite the site entrance, 28 cottages in total.
- 1.4 The site is located approx. 150m to the south of Lower Halstow, and falls outside of the built confines of the village. The village of Lower Halstow is a Tier 5 settlement under the local plan settlement strategy (ST3) where development is generally restricted to small scale proposals within the village boundaries. This means that the urban centres and the larger well-connected villages occupy the higher settlement tiers, whilst those with strong environmental character, poorer access to services and/or limited capacity for change generally occupy the lower. Settlements are assigned to the Tiers as shown in Table 4.3.1 (ST3) with development on a descending scale; in other words the lower the tier of settlement, the reduced amount of development envisaged. Lower Halstow is located in one of lower least desirable tiers for future development.
- 1.5 There is a public right of way (footpath, ZR43) situated immediately to the north of the site.

2. PROPOSAL

- 2.1 This is an outline planning application for the erection of a single detached self-build dwellinghouse and carport/garage. All matters other than access are reserved for future consideration.
- 2.2 Indicative plans have been submitted which show a form of development that could be built, incorporating a two storey detached dwelling and a carport/garage located towards the northern side of the site.
- 2.3 The existing site access would be utilised for the development.

3. RELEVANT PLANNING HISTORY

3.1 The site has the following planning history, being the northern (Plot B) part of the two plots included in the following applications:

- **17/502046/OUT** – outline application (some matters reserved) for the erection of 9 dwellings and garages, new access with associated landscaping and parking – access to be sought at this stage – Refused 11.7.2017

Refused on the following grounds:

The application site is located outside of the built confines of Lower Halstow and within the open countryside where the Council's adopted and emerging Local Plan policies aim to restrict residential development other than in specific circumstances. The proposed development would fail to protect the intrinsic value, tranquillity and beauty of the countryside by virtue of its location and likely layout and form, and would be contrary to policies ST3, CP3, CP4 and DM14 of the emerging Swale Borough Local Plan "Bearing Fruits 2031", and policies E1 and E19 of the adopted Swale Borough Local Plan.

The Reptile Survey submitted with the application does not accord with Natural England standing advice regarding the number of visits required to establish a population estimate, and does not provide sufficient information on the location or suitability of an off site receptor site. On this basis, the survey fails to suitably demonstrate the presence of protected species on the site, or adequate mitigation measures. This would be harmful to biodiversity and contrary to policies E11 of the adopted Swale Borough Local Plan 2008 and DM28 of the emerging Swale Borough Local Plan "Bearing Fruits 2031".

- **19/500764/OUT** – outline application (all matters reserved except access) for the demolition of former farm building/garage and erection of 10 no. 2, 3- and 4-bedroom dwellings with garages, associated landscaping and parking, together with new access and part widening of Breach Lane – Refused 19.8.2019

Refused on the following grounds:

The proposed development represents unsustainable development and therefore fails to comply with the requirements of paragraph 8 and 79 of the National Planning Policy Framework 2018. By virtue of its location outside any well-defined urban boundary and remote from the nearest settlements where a good range of services are available, the lack of prospect of residents being able to integrate with the existing communities and the limited public transport to service the site which will result in a car dependent population. Furthermore, the proposed development would fail to protect the intrinsic value, tranquillity and beauty of the countryside and rural context by virtue of its location and likely layout and form. This harm, both significantly and demonstrably, outweighs any benefits from the proposal (including its contribution to the overall supply of housing in the Borough). Development is therefore contrary to policies ST1, ST3, CP3, CP4, DM9, DM14, DM24 of the Bearing Fruits 2031: The Swale Borough Local Plan (2017) and would be contrary to paragraphs 8, 11, 79, 127, 130 and 170 of the National Planning Policy Framework.

The application was subject to an appeal which was dismissed, dated 31.7.2020

- 3.2 The Planning history is a material planning consideration of some weight in the determination of the outline planning application, having regard to the key differences between the 2017 and 2019 applications and the current scheme which proposes a single self-build detached dwelling, with a reduced site area (parcel B only) and reduction in the number of dwellings and site coverage by built form.

4. PLANNING CONSTRAINTS

- 4.1 In the countryside outside the built-up area confines
- 4.2 Public footpath, ZR43 is situated to the north of the site

5. POLICY AND CONSIDERATIONS

- 5.1 The National Planning Policy Framework (NPPF): Paragraphs 8 (sustainable development); 11 (The presumption in favour of sustainable development); 55 (re-use of redundant buildings); 59 – 76 (delivering a sufficient supply of homes); 77 – 79 (Rural housing); 127 and 130 (good design); 148 (transition to low carbon future); 165 (sustainable drainage systems); 170 (enhance the natural and local environment) are relevant to this proposal.
- 5.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017 – Policies ST1 (delivering sustainable development in Swale); ST3 (the Swale settlement strategy); ST4 (Meeting the Local Plan development targets); ST5 (The Sittingbourne area strategy); CP2 (Promoting sustainable transport); CP3 (Delivering a wide choice of high quality homes); CP4 (Requiring good design); DM6 (managing transport demand and impact); DM7 (Vehicle parking); DM14 (general development criteria); DM19 (Sustainable design and construction); DM21 (sustainable drainage / flood mitigation); DM24 (conserving and enhancing valued landscapes); DM28 (biodiversity conservation); DM29 (Woodlands, trees and hedges); DM31 (agricultural land).
- 5.3 Landscape SPD – Swale Landscape Character and Biodiversity Appraisal 2011. The site falls within character area 32: Upchurch and Lower Halstow which falls within the Fruit Belt Landscape Types. The landscape condition is described as ‘moderate’ with a ‘moderate’ sensitivity. The guidelines for this area are to conserve and create.

6. LOCAL REPRESENTATIONS

- 6.1 Twenty-one letters of representation have been received. Of these, seventeen are letters of support and four are letters of objection.
- 6.2 Of the seventeen letters of support, the content can be summarised as follows:
- Good use of brownfield site
 - Would enhance the appearance of the local area
 - Sustainable location - Good access by foot to Lower Halstow via the pavement opposite
 - Demand for properties high in the area – village needs more housing
 - Would not be an isolated position based upon Westfield cottages opposite

- Self-build - all LPAs are required to meet demand for Self-Build and Custom-Build homes.
- Swale has a shortfall in meeting its housing requirements/obligations and approval of this dwelling will go towards meeting the deficit.
- Contribute to the economy and vitality of the village
- Small number of car journeys are likely to be south bound away from village centre where at school times there is already road congestion
- Entrance to the site is not a blind bend – having this development will not impact on safety
- Concerns raised that land could be put to more unsightly and inconvenient uses
- Easily accessible due to street lighting and footpath at its widest point, 20mph speed limit soon to be introduced
- Beneficial visual impact - appropriate landscaping
- Meets the Lower Halstow Parish Council Application Assessment Criteria

6.3 Of the four letters of objection, the content can be summarised as follows:

- The land is not a brownfield site – the site has never been developed
- Development applications for this site have been submitted previously and have each time been declined, including at appeal. This application fails to overcome the concerns and points raised in the refusals.
- Represents unsustainable urban expansion; being outside the village boundaries and an unsustainable development as there has been no increase in public services, including footpaths, since the last development application which was refused.
- Open the door to further expansion into the countryside
- The site is outside of the Lower Halstow settlement boundary
- Safety concerns - The entrance and to the site will be at a point in the road which is a blind spot and already difficult for road users, creating highway and safety concerns.
- Environment negative impact- light and noise and habitat. There is little or no light on the street which would discourage pedestrians and cyclists on an everyday basis
- This would represent the first development in the proximity to Westfield cottages since the building of Westfield house in about the 1930s.
- Concerns raised that the site has been cleared, resulting in the loss of significant valuable habitat from the site resulting in a net deficit of biodiversity

7. CONSULTATIONS

7.1 Lower Halstow Parish Council - Agree to support this application in line with the village planning strategy for the following reasons:

- This is only outline planning with no major specifics, but the design looks in keeping with its surroundings
- Homeworking is given – would like to see local trades people being used for the build where possible
- Would like to see downlights used outside no outside lighting
- It is being built to current standards but would like to see solar panels, battery banks and electric boundaries of what we can encourage builders to build.

7.2 Environmental Health - No objection, subject to relevant planning conditions – contaminated land.

7.3 Health and Safety Executive - No comment to make

- 7.4 Natural England - No objection, subject to SAMMS and Appropriate Assessment
- 7.5 KCC Highways - No objection, subject to relevant planning conditions
- 7.6 KCC Ecology – Raised concerns that prior to the undertaking of the Preliminary Ecological Appraisal (PEA) in March 2022, the site has been cleared of most vegetation. Aerial photography of the site prior to the PEA indicates that the land was covered in scrub, grasses, and tall herbs, which would have been suitable sheltering and foraging habitats for reptiles and amphibians. KCC advise that the works should not have taken place in advance of any planning application and highlight that the clearance of the vegetation may have resulted in a breach of legislation. KCC highlight that the applicant will need to continue management within the development footprint as it is currently to discourage protected species from beginning to use the site, as recommended in the PEA. The submitted site plan shows that only half of the site is proposed to be impacted by the development footprint and recommend the remaining half is revegetated and suitable habitat to support protected/notable species is established. In the event of the application approved, a number of planning conditions are proposed.

8. **BACKGROUND PAPERS AND PLANS**

- 8.1 Existing plans
- 8.2 Proposed plans

9. **APPRAISAL**

Principle of Development

- 9.1 The site is located within the countryside and outside of the built area boundary of Lower Halstow. The main relevant planning policy is ST3 of the Local Plan, which states that at locations in the open countryside outside the defined built up area boundaries, development will not be permitted unless supported by national policy and where it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities.
- 9.2 The Council's spatial strategy is set out in Policy ST3 of the Swale Borough Local Plans 2017 which identifies a hierarchy of 5 types of settlement. Lower Halstow is one of many villages in Tier 5 that provides basic services to meet some of the residential day to days needs and policy restricts development in these villages to minor infill and redevelopment within the built-up area boundaries only. In this regard, Policy ST 3 of the Local Plan (2017) paragraph states:

All other settlements and sporadic buildings are considered to sit within the open countryside where the primary objective will be to protect it from isolated and/or large scales of development. Some minor development may though be essential for the social, economic or environmental health of a community, but are not necessary to meet the Local Plan housing target. In doing so, they will be required to protect and, where required, enhance, the intrinsic value, character, beauty, wildlife value, tranquillity and undeveloped nature of the countryside and its communities and buildings.

- 9.3 The location of the site, beyond the boundary of a Tier 5 village, makes it one of the least desirable locations for new residential development. The principle of residential development in this location is not supported under the local plan.
- 9.4 However, the Council cannot currently demonstrate a five-year supply of housing land. The position for 2020/2021 that Swale now has an identifiable 4.8 years supply of housing land.
- 9.5 In addition, the current adopted local plan is now 5 years old and, in relation to policies for the supply of housing, is “out-of-date”. This means that performance against housing delivery is no longer assessed against the annual local plan figure of 776 but that of the “standard method”. For Swale, this means that the target will increase to 1,048 (or whatever the standard method figure is for that monitoring year).
- 9.6 For these reasons, paragraph 11 of the NPPF applies (the tilted balance). Paragraph 11 d) states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

Location of development

- 9.7 Lower Halstow is a Tier 5 settlement with limited services. The location of the site is remote from village being some 170m to the south. Access to the village is possible via a footpath on the east side, although this is largely unlit. Given the limited services available in the village, the remote location of the site away from the village, and the unlit nature of the road, I consider that occupants of the development would be likely to rely on car-borne journeys.
- 9.8 It is also material to highlight an appeal decision for 10 dwellings which included the land subject to this application (following the Council’s decision to refuse permission under 19/500764/OUT) The appeal Inspector stated in paragraph 11

I conclude that the appeal site would not be a suitable location for the proposed development having regard to the settlement strategy and its poor access to local services and facilities and would conflict with policies ST1, ST3 and DM9 of the LP and paragraphs 8,11,79,and 170 of the National Planning Policy Framework (2019) (the Framework), which when read together seek to deliver sustainable development consistent with the settlement strategy by restricting development in the open countryside.

- 9.9 Whilst the current application is now for a single dwelling only, I remain of the view that the site is not in a suitable location for such development, and that the scheme performs poorly under policy ST3 of the Local Plan.

Impact on character and appearance of area

- 9.10 The site incorporates a small brick building and remnants of a hardstanding. The NPPF definition of brownfield / previously developed land in Annex 2 excludes ‘land that was previously developed but where the remains of the permanent structure or fixed

surface structure have blended into the landscape.’ The existing outbuilding would be considered previously developed, however the remainder of the site is currently open in character and appearance. In my opinion, whilst parts of the site could be held to be previously developed land, the extent to which this impacts upon the character and appearance of the area is very limited.

- 9.11 The site is largely of an open and undeveloped character and appearance. It forms part of the generally open landscape to the south of Lower Halstow. Whilst the line of terraced cottages lies to the east of the site, the essential characteristics of the west side of Breach Lane are of an open and rural landscape – albeit with some minor exceptions such as Westfield House. My assessment is similar to that of the appeal inspector for 19/500764 who stated in paragraph 12 that the site has “an undeveloped appearance and makes a significant contribution to the open rural landscape of the area which extends beyond the appeal site towards Upchurch”.
- 9.12 Although the proposed dwelling would not be isolated in the true sense of the word given the proximity to the cottages to the east and the dwelling further south, I consider that the proposal would have a significant urbanising impact on the west side of Breach Lane, which would be harmful to the character and appearance of the countryside and wider landscape. Although the development is for one dwelling and the precise detail is not known at this stage, I consider this would still introduce an urban and domestic character and appearance to the site through the built form, layout and domestic paraphernalia that would arise from any residential development, and which would be harmful to the rural surroundings.
- 9.13 Policies ST3, CP3, CP4, DM14 and DM24 of the Local Plan seek to ensure that development is steered to the right locations, is of high quality design appropriate to its context, and strengthens / reinforces local distinctiveness. The development of a dwelling and associated structures and paraphernalia in this location would not be appropriate to its rural context and would harm the character and appearance and intrinsic value, beauty and functioning of the countryside and landscape. In addition, the likely form of the dwelling would fail to reinforce local distinctiveness and, as such, would be contrary to the above policies. This is considered to be a significant negative impact and would be contrary to the aims of paragraphs 127, 130 and 170 of the NPPF as it would not significantly enhance its immediate setting, and it would not be sensitive to the defining characteristics of the local area due to the harmful impact on the countryside and contrary to the aims of the Swale Landscape Character and Biodiversity Appraisal 2011 SPD which seeks to restore the rural environment whilst creating a landscape structure that will improve the areas strength of character.
- 9.14 This concern is supported by the Planning Inspector for the previous appeal on this site. In concerns arising from harm to the character and appearance of the area, the Planning Inspector commented (para 14)

The development proposed would have a significant harmful effect on the open landscape appearance of the appeal site and would not enhance its immediate setting. It would be contrary to the aims of the Swale Landscape Character and Biodiversity Appraisal 2011 Supplementary Planning Document which seeks to restore the rural environment, whilst creating a landscape structure that would

improve the areas strength of character. Overall, the development proposed, would have a significant adverse impact on the contribution the appeal sites undeveloped appearance makes to the open landscape character of the surrounding area. (para 14)

I conclude that the development proposed would have a significant detrimental impact on the setting of the open countryside and would be contrary to policies CP3, CP4, DM9, DM14 and DM24 of the LP and would be contrary to paragraphs 8,11,127, 130 and 170 of the Framework. When read together these policies seek to deliver sustainable development which directs new development to be within the defined settlement hierarchy, contributes to the move towards a low carbon future and protects and enhances the intrinsic character of the rural landscape in the area. (para 15)

- 9.15 Whilst the proposal would be for one dwelling rather than the ten dwellings previously refused, this would still be harmful to the rural character and appearance of the area as set out above.

Residential Amenity

- 9.16 Policy DM14 of the Local Plan states that all developments should cause no significant harm to the amenities of surrounding uses or area. The detailed scheme for the new dwellings would be secured at the reserved matters stage and this will include the design and form of the dwelling including details such as window/door placement and details of boundary treatments.
- 9.17 The closest residential property is Westfield House which is to the south of this application. Whilst layout and design are matters for future consideration, the application shows an illustrative layout which avoids any direct overlooking of this property, and a good degree of space can be maintained between it and the development.
- 9.18 The properties on the opposite side of Breach Lane would be in direct view of the new dwelling. Again, the illustrative layout as shown indicates that good separation distances and appropriate layouts could be created to avoid any unacceptable impacts on these existing properties.
- 9.19 Taking the above into account, it is considered that the development could be designed to avoid unacceptable impacts on neighbours and comply with the above policy.

Highways

- 9.20 It is proposed to utilise the existing vehicular/pedestrian access onto Breach Lane. Neither the 2017 nor 2019 applications were refused on the inadequacy of using the access to serve new residential development, particularly having regard to its historic use as a car park for the club opposite with associated traffic generation. The Highway Authority has been consulted who raise no objection to the proposal and I have no reason to raise any highways issues.
- 9.21 The illustrative layout indicates the possibility of providing vehicle parking in accordance with Policy DM7 and KCC Vehicle Parking Standards.

Landscaping and biodiversity

- 9.22 Landscaping is a reserved matter. Policy DM14 requires the provision of an integrated landscape scheme that would achieve a high standard of landscaping within the development and given this is a countryside setting further details would be required at the reserved matters stage if the application was found acceptable in principle.
- 9.23 The NPPF requires new development to minimise impacts on biodiversity and provide net gains in biodiversity, where possible. Local planning authorities are required to conserve and enhance biodiversity when determining planning applications and take opportunities to incorporate biodiversity in and around developments. Policy DM28 also requires that development proposals will conserve, enhance and extend biodiversity, provide for net gains in biodiversity, where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated. KCC Ecology has been consulted who raised concerns that prior to the undertaking of the Preliminary Ecological Appraisal (PEA) in March 2022, the site has been cleared of most vegetation. Notwithstanding, should the application be considered favourably a number of safeguarding conditions are proposed.
- 9.24 In wider ecology terms, site lies within 6km of the Swale SPA and a contribution is therefore required to mitigate the potential impacts of the development upon that protected area, in accordance with the Council's standing agreement with Natural England. The applicant has made the necessary financial contribution to mitigate the impact in accordance with the established SAMMS procedure.

Self-Build development

- 9.25 A further material consideration is the submission of the application as a self build/custom build housing project. Self-build and custom build housing is a specialist form of residential development, and the Council is required to keep a register of individuals seeking to acquire serviced plots of land within the Borough for their own self build and custom housebuilding.
- 9.26 Paragraph 62 of the NPPF sets out the Government's objective to significantly boost the supply of housing. Paragraph 61 of the NPPF stipulates:

'Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).'

Footnote 28 further states, *'Under section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing'. (Footnote 28)*

9.27 The Council Self-Build Register as at August 2022 contains approximately 110 individuals and 5 associations of individuals. A self/custom build development has been permitted nearby at Callum Park which allowed for 9no. custom build homes (Ref: 20/501002/OUT). Although this site was also isolated from Lower Halstow, weight was given to the removal of existing significant built form on the site and to the financial benefits to the existing equestrian centre as a rural facility.

9.28 Whilst I give weight to the need for sites for self-build /custom housing, I consider that the site performs poorly in terms of its location and impact on the character and appearance of the area as set out above. The benefit of providing a self-build unit on the site against this harm is balanced further below

10. CONCLUSION

10.1 The site is located outside of the built confines of the village and within the countryside. In the absence of a five year housing supply, the tilted balance under paragraph 11d) of the NPPF applies. The proposal would offer benefits in terms of adding to the housing supply in the Borough, and delivering a self-build plot. However I would only give these benefits a small degree of weight given that the proposal relates to 1 dwelling.

10.2 The proposal would conflict with policies in the local plan relating to the location of development and the need to protect the local and natural environment, which are generally consistent with the aims of the NPPF. The development would result in significant harm to the character and appearance of the countryside through development of a site that forms part of an existing open and rural landscape and future occupants would be likely to be reliant on the private car. Whilst the level of harm would be lower than the 10 dwelling scheme refused by the previous Inspector, at the same time the benefits of the development are also diminished through the provision of only one dwelling into the housing supply. Whilst the scheme would enable a self-build dwelling, I consider that the poor location of the site and harm to rural character and appearance that would arise to significantly and demonstrably outweigh this benefit arising from 1 dwelling. Likewise, I consider the benefits of re developing a partially brownfield site are diminished by the generally open and undeveloped existing character of the land and by the harm identified above.

10.3 For the reasons set out above, I conclude that the benefits of the development are limited and significantly outweighed by the harm to the character, appearance, and intrinsic amenity value of the countryside and the unsustainable location of the site and for these reasons the development is unacceptable.

RECOMMENDATION

REFUSE for the following reasons:

REASON FOR REFUSAL

1. The proposed development would represent unjustified and unnecessary residential development within the countryside, and outside of the defined built-up area boundary, in a manner harmful to the character, appearance, and intrinsic amenity value of the countryside. The proposal is therefore contrary to policies ST1, ST3, ST5, CP3, CP4, DM9, DM14 and DM24 of Bearing Fruits 2031 - The

Swale Borough Local Plan 2017; and to the advice of paragraphs 8, 11, 80, and 174 of the National Planning Policy Framework.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.

This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.

The application site is located within 6km 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 2017 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, and an Appropriate Assessment is required to establish the likely impacts of the development.

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 63 and 64 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.

The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *"it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site."* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions 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 that such strategic mitigation must be in place before the dwelling is occupied.

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 (via the NKEPG), I conclude that off site mitigation is required.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (which has been secured prior to the determination of this application) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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.



PLANNING COMMITTEE – 13 OCTOBER 2022

PART 5

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

- **Item 5.1 – land rear of 25-29 Station Street Sittingbourne**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

A disappointing decision. The site lies in a prominent position, adjacent to the one-way system with the rear of the site fronting onto Pembury Street. Although in outline form, the Council raised concern that the supporting information failed to demonstrate how a scheme of sufficient scale and design strength could be accommodated on the site. However the Inspector considered that it was conceivable that a scheme of 9 units could be accommodated in a satisfactory way and that this would be controlled under a reserved matters application. The Inspector also considered that the 50% reduction in dwelling emission rates, as sought by the Council as one of the proposed conditions, was not part of the development plan and not justified – and did not impose this.

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Appeal Decision

Site visit made on 21 September 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd September 2022

Appeal Ref: APP/V2255/W/21/3288665

Land to the rear of 25-29 Station Street, Sittingbourne, ME10 3DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Tristan Property (Sittingbourne) Ltd against the decision of Swale Borough Council.
- The application Ref 21/503221/OUT, dated 10 June 2021, was refused by notice dated 21 October 2021.
- The development proposed is for residential development of 9 units including access.

Decision

1. The appeal is allowed and planning permission is granted for residential development of 9 units including access at land to the rear of 25-29 Station Street, Sittingbourne, ME10 3DU in accordance with the terms of the application, Ref 21/503221/OUT, dated 10 June 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was made in outline with only access to be determined at this stage. Layout, scale, appearance and landscaping are therefore reserved for future determination.
3. Access would be taken from Pembury Street. The development is intended to be car free apart from disabled parking. A single space for this purpose is included on the indicative layout. This also shows 9 studio flats arranged on two floors along the northern side of the site facing Dover Street (A2). This is not a formal part of the proposal but nevertheless illustrates one way that the site could be developed.
4. If the appeal were to be allowed, then planning permission for 9 residential units would exist. Therefore, I need to be satisfied that a suitable scheme could be devised at the reserved matters stage.

Main Issue

5. The main issue is whether the proposal could achieve a satisfactory scale of development having regard to the character and appearance of the area.

Reasons

6. The appeal site of 0.06ha is vacant land previously used as car parking in conjunction with 25-29 Station Street. Existing structures would be removed. It lies above the level of Dover Street which is a busy traffic route through the town and is therefore in a prominent location.

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/W/21/3288665

7. The land is within the central Sittingbourne regeneration area so Policy Regen1 of the Swale Borough Local Plan of 2017 applies. This indicates that proposals which support the objective of consolidating and expanding Sittingbourne's position as the main centre for the Borough will be permitted. Furthermore, because of its condition, the site is a visually poor area where the policy encourages redevelopment with buildings of innovative and sensitive design to create new and improved townscape areas.
8. As part of the scheme, the three-storey building at Nos 25-29 would be retained. Prior approval has been given for a change of use of a shop to 3 dwellings and prior approval is not required for a change of use from offices to 6 residential units. Therefore a total of 9 units could be accommodated as permitted development in the adjoining building at 25-29 Station Street.
9. The reason for refusal alleges that the proposal would not make an effective use of the land. It would achieve a density of 150 dwellings per hectare but the Council does not object in these terms. Indeed, none of the Local Plan policies referred to contain specific density guidelines or contain policy provisions relating to an effective use of land. Policy CP4, for example, requires good design but provides that densities should be determined by the context and the defining characteristics of the area.
10. The National Planning Policy Framework nevertheless refers to ensuring that developments make optimal use of the potential of each site. In this respect, the site is constrained by the need to ensure that the occupiers of the 9 units proposed within Nos 25-29 would enjoy a good standard of amenity and that rear access and cycle parking could be provided for them. The site is not large and factors such as the relationship with other neighbouring properties, the need for private amenity space, accommodating waste storage and providing dual aspect units also limit its capacity. None of this is disputed by the Council.
11. At the application stage the Council sought further illustrative material to show how a greater scale of development could be accommodated. Other than some modelling showing a part 3-story building this was not forthcoming. However, if the Council thought that the application should not be considered separately from the matter of scale then it could have formally requested further details under paragraph 5(2) of part 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. However, it did not do so and therefore the matter of scale is not part of the proposal.
12. The Council is nevertheless not convinced that a scheme for 9 units would be of an appropriate scale. In particular, that it would not provide for a strong urban form but rather one that is "underwhelming and weak". However, the size and type of the proposed new dwellings is not fixed and they could conceivably be larger than the small ones illustrated and so lead to a larger building than that indicated. As the quantum of development would not change in that scenario it is unlikely that the supporting infrastructure would change to such an extent that developing 9 larger units would not be feasible, notwithstanding the constraints. This is especially as parking provision would be minimal. There is no clear evidence that the site only has scope to be developed by studio flats.
13. The centre of Sittingbourne is undergoing change and distinctive buildings have been erected nearby in recent years. However, the appeal site has not been identified as suitable for a landmark building and is outside the Masterplan area as shown in figure 6.7.1 of the Local Plan. Indeed, the Council has not been

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/W/21/3288665

specific about the scale of development that it is seeking to achieve. The immediate context mainly comprises two and three storey development in Station Street and Pembury Street. There is no particular need for any scheme to be subservient to Nos 25-29 and so three-storey development here would reflect the scale of the buildings that border the appeal site.

14. The illustrative material was devised to show the minimum amount of development that could be achieved. Based on this there is scope for a new building to follow the line of Dover Street and provide a firm edge to the site. Moreover, it is not obvious that 9 residential units could not produce a development that would be meaningful in size in this location and when seen against its neighbours. In this way, and subject to detailed design, the proposal would be able to meet the aspirations for the town in Policy Regen1.
15. Therefore the proposal could achieve a satisfactory scale of development having regard to the character and appearance of the area. There would be no conflict with Local Plan Policies Regen1 or CP4 or with the general development criteria of Policy DM14.

Other Matters

16. A number of other considerations weigh strongly in favour of the proposed development. These include the support in Policy Regen1 for housing redevelopment in the western gateway to the regeneration area, the use of previously-developed land, the very close proximity to the station and the absence of a 5 year housing land supply in Swale as of spring 2021.
17. The Urban Design Officer refers to the desirability of including 25-29 Station Street within a more comprehensive redevelopment site. The appellant company previously considered that option but those plans were put on the 'back burner' due to the pandemic. In any event, there is no policy requirement for a larger site to come forward. This consideration therefore does not count against the proposal.
18. The appeal site is within 6km of the Medway Estuary and Marshes Special Protection Area (SPA). In combination with other development in Swale, additional dwellings would be liable to lead to recreational disturbance and so have a detrimental impact on the migratory birds. There would therefore be a likely significant effect on the SPA's features of interest.
19. To mitigate this impact, the Council expects a financial contribution to be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy. Natural England concurs with this approach. The requisite sum has been paid by the appellant accompanied by a payment form confirming the purpose of the contribution. The mitigation works are carried out by Birdwise which is the brand name of the SAMM Board that is made up of a partnership of local authorities, developers and environmental organisations.
20. The PPG indicates that any measures used to inform the decision about the effects on integrity need to be sufficiently secured and likely to work in practice (ID: 65-004-20190722). A high degree of assurance is required if the provisions of the Conservation of Habitats and Species Regulations are to be met. One way of achieving this would be by means of a planning obligation but the Council indicates that a direct payment is also a suitable mechanism.

Appeal Decision APP/V2255/W/21/3288665

21. In this case, the money has been paid and the way in which it would be spent has been documented. Furthermore, the Board and the Council are responsible public bodies. In particular, the Board has a system of governance in place and comprises multiple partners. The Mitigation Strategy indicates that its annual reports will provide details of spending. There is no evidence that sums collected have not been spent on the measures detailed in the Strategy. In these circumstances, I am satisfied that the financial contribution would lead to effective mitigation.
22. As a result, following an appropriate assessment, the proposal would not adversely affect the integrity of the SPA. It would therefore accord with Policy DM28 of the Local Plan which reflects the Regulations and seeks to conserve and enhance biodiversity generally.

Conditions

23. Where necessary, the suggested wording of the conditions that are required has been adjusted in the interests of clarity.
24. To ensure that the development functions as intended a condition is required to secure the provision of the approved access. Details of the car parking provision for disabled persons should be agreed. Making provision for vehicle charging points is required to promote sustainable transport as referred to at paragraph 112 e) of the Framework. Cycle storage facilities should also be incorporated for the same reason. In the interests of pedestrian safety the visibility splays shown should be provided and retained.
25. A limit on the water consumption rate is justified by Local Plan Policy DM21. Given the proximity of the site to Dover Street a condition to assess air quality and to mitigate any adverse impacts is warranted to safeguard the health of future occupiers. As the site has previously been used for parking a condition to investigate and remediate, if necessary, any contamination is warranted.
26. Due to the proximity to residential properties a construction management plan including measures to suppress dust is necessary together with a limit on working hours. However, control of vehicle routing is unlikely to be effective and they would be required to travel along Pembury Street in any event.
27. Conditions regarding the implementation of hard and soft landscaping and replacement planting can be imposed at the reserved matters stage once details of landscaping have been provided.
28. The need for specific measures to deal with surface water has not been explained in any detail and the treatment of the land would be covered by the landscaping details so there is also no need to specify a bound surface.
29. The Council seeks at least a 50% reduction in dwelling emission rates compared to the Target Emission Rates required under the Building Regulations. This is a laudable response to climate change but the Framework is clear that any local requirements should reflect the Government's policy for national technical standards. Such a condition therefore goes beyond national policy. Policy DM19 refers to sustainable design and construction in generic terms and so this specific requirement is not part of the development plan. As such, this stipulation is not justified.

Appeal Decision APP/V2255/W/21/3288665

Conclusion

30. The proposal accords with the development plan and there are no other material considerations to indicate that a different decision should be taken. Therefore, for the reasons given, the appeal should succeed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to the occupation of the dwellings hereby permitted, the access shown on drawing no. 0117-KAA-XX-ZZ-DR-A-0017-A1-P2 shall be provided.
- 5) The layout details submitted pursuant to Condition 1) shall include details of parking for disabled persons. No dwelling shall be occupied until the approved parking has been provided. Thereafter the space(s) shall be retained and kept available for the parking of vehicles for disabled persons.
- 6) No development shall take place until details of the provision of electric vehicle charging point(s) for each approved parking space have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the approved charging point(s) has been provided. The approved charging point(s) shall thereafter be retained.
- 7) No development shall take place until details of cycle storage have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the first occupation of the development hereby permitted and retained thereafter.
- 8) Prior to the occupation of the dwellings hereby permitted, the pedestrian visibility splays shown on drawing no. 0117-KAA-XX-ZZ-DR-A-0017-A1-P2

<https://www.gov.uk/planning-inspectorate>

5

Appeal Decision APP/V2255/W/21/3288665

- shall be provided and thereafter retained with no obstruction over 0.6m above footway level.
- 9) The dwellings hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.
- 10) No development shall take place until an air quality assessment has been submitted to and approved in writing by the local planning authority. This shall assess the impacts of air quality from road traffic and shall incorporate any mitigation required to manage any air quality impacts. Any approved mitigation measures shall be implemented prior to the first occupation of the development hereby permitted and shall thereafter be retained.
- 11) No development shall take place until a scheme to deal with the risks associated with any contamination of the site have been submitted to and approved in writing by the local planning authority. The scheme shall include:
- (1) A preliminary risk assessment which has identified all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors and potentially unacceptable risks arising from contamination at the site;
- (2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site; and
- (3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This shall give full details of the remediation measures required and how they are to be undertaken. The RMS shall also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- A closure report including data collected and details of any monitoring, maintenance or contingency action undertaken in accordance with the verification plan (3) shall be submitted within one month of the completion of the development. The report shall also include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.
- 12) No development shall take place until a construction management plan has been submitted to and approved in writing by the local planning authority. The management plan shall include details of parking and turning areas for construction and delivery vehicles and site personnel, timing of deliveries, wheel washing facilities and dust suppression measures. Construction works shall be undertaken in accordance with the approved management plan.
- 13) No construction work shall take place on any Sunday or Public Holiday, nor at any other time except between 0730 – 1800 hours on Monday to Friday and 0800 – 1300 hours on Saturdays.